

Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROSA PADILLA PAZ,

Petitioner,

v.

JULIO HERNANDEZ, et al.,

Respondents.

Case No. 2:26-cv-01394-BAT

FEDERAL RESPONDENTS'¹
RESPONSE TO PETITIONER'S
MOTION FOR TEMPORARY
RESTRAINING ORDER

Noted for Consideration:
April 28, 2026

I. INTRODUCTION

Petitioner's Motion for a Temporary Restraining Order ("TRO") should be denied. Dkt. 2 ("TRO Motion"). She fails to satisfy the governing standard under either this district's General Order 10-25 or the traditional *Winter* factors, and her request instead seeks to bypass established administrative and judicial processes without a legally sufficient basis.

First, Petitioner does not allege the type of imminent, irreparable harm required to justify emergency relief under General Order 10-25. That Order makes clear that TROs are reserved for exceptional circumstances, such as imminent removal, not for circumstances that can be addressed through ordinary procedures. Although the Petitioner cites the death of her nephew,

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 she does not allege that she sought available administrative relief, including humanitarian
2 consideration or temporary leave to attend the funeral. The availability of other avenues suggests
3 the harm is not immediate or irreparable. Therefore, by failing to identify any imminent or
4 irreparable harm, emergency judicial intervention is neither necessary nor appropriate, and that
5 this matter should proceed in the ordinary course of habeas review.

6 Second, Petitioner cannot demonstrate a likelihood of success on the merits. As a
7 threshold matter, this Court lacks jurisdiction to review discretionary bond determinations or to
8 reweigh the evidence considered by the immigration judge (“IJ”). *See Torres-Aguilar v. INS*, 246
9 F.3d 1267, 1271 (9th Cir. 2001); 8 U.S.C. § 1226(e). To the extent Petitioner attempts to cloak
10 her legal challenge in constitutional terms, the record reflects that she received all the process
11 required under the Fifth Amendment. Her claims do not identify a cognizable legal error but
12 instead amount to a disagreement with the outcome of her bond proceeding, which is not a basis
13 for habeas relief.

14 Finally, even assuming review is available, Petitioner’s allegations do not support the
15 relief she seeks. The procedures governing detention under 8 U.S.C. § 1226(a) have been upheld
16 as constitutionally sufficient, and Petitioner’s bond hearing comported with those requirements.
17 *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1212–13 (9th Cir. 2022). Nothing in her motion
18 justifies the extraordinary remedy of immediate release.

19 Because Petitioner cannot establish a likelihood of success on the merits, or even serious
20 questions going to the merits, the Court need not reach the remaining *Winter* factors. *Geo Group*
21 *v. Inslee*, 151 F.4th 1107, 1114 (9th Cir. 2025).

22 II. LEGAL STANDARD

23 The standard for issuing a temporary restraining order is “substantially identical” to the
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1 standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*,
 2 240 F.3d 832, 839 n.7 (9th Cir. 2001). “It frequently is observed that a preliminary injunction is
 3 an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear*
 4 *showing*, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)
 5 (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555
 6 U.S. 7, 22 (2008).

7 A plaintiff seeking a preliminary injunction must show that: (1) he or she is likely to
 8 succeed on the merits, (2) he or she is likely to suffer irreparable harm in the absence of
 9 preliminary relief, (3) the balance of equities tips in his or her favor, and (4) an injunction is in
 10 the public interest. *See Winter*, 555 U.S. at 20 (“*Winter* factors”). Alternatively, a plaintiff can
 11 show that there are “serious questions going to the merits and the balance of hardships tips sharply
 12 towards [plaintiff], as long as the second and third *Winter* factors are satisfied.” *Disney Enters.*,
 13 *Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation omitted).

14 The purpose of preliminary injunctive relief is to preserve the status quo pending final
 15 judgment, rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v.*
 16 *Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

17 III. ARGUMENT

18 A. Petitioner does Not Qualify for A TRO Under General Order 10-25

19 In December 2025, the United States District Court for the Western District of Washington
 20 issued General Order 10-25 governing immigration habeas petitions under 28 U.S.C. § 2241.
 21 Paragraph 5 of that Order addresses temporary restraining orders (“TROs”) and provides: “The
 22 standard scheduling order is intended to provide a prompt resolution to habeas petitions that
 23 should reduce the contemporaneous filing of motions for temporary restraining orders seeking
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1 release from custody or the relief that is otherwise requested by the habeas petition. Motions for
2 temporary restraining orders should be reserved for matters where the petitioner alleges
3 imminent, irreparable harm, such as imminent removal from the United States.” GO 10-25
4 (emphasis added).

5 Petitioner Rosa Padilla Paz previously sought habeas relief in this District in 2025. *See*
6 *Corrales Castillo v. Wamsley*, No. 2:25-cv-02172-TMC, 2025 WL 3204370, at *2–3 (W.D.
7 Wash. Nov. 17, 2025). As Petitioner acknowledges, that Petition was denied. *See* Dkt. 2 at 8, n.1.
8 No further litigation followed for approximately five months.

9 Petitioner now returns on April 24, 2026, filing a second habeas petition along with the
10 instant motion for a TRO, asserting that circumstances now warrant emergency and extraordinary
11 relief. *See generally* Dkt. 1, Petition (“Pet.”); Dkt. 2 (“TRO Motion”). She does not meet that
12 standard. General Order 10-25 makes clear that TROs are reserved for situations involving
13 “imminent, irreparable harm,” such as imminent removal. Petitioner identifies no such threat here.
14 Instead, she asserts that her “imminent, irreparable harm” arises from grief related to the death of
15 her nephew. While Respondents do not diminish the seriousness of that loss, it does not constitute
16 the type of imminent, irreparable harm contemplated by General Order 10-25. This is particularly
17 true where there is no evidence that Petitioner sought other available avenues that could address
18 the situation she identifies, such as requesting humanitarian consideration or temporary leave to
19 attend her nephew’s funeral from ICE.

20 **B. Petitioner Is Not Likely to Succeed on the Merits**

21 Petitioner cannot meet her burden to show a likelihood of success on the merits. Her
22 current petition repackages arguments that have already been rejected and challenges
23 discretionary determinations that are either constitutionally adequate or unreviewable by this
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1 Court.

2 1. Petitioner Seeks to Relitigate Her Prior Habeas

3 Petitioner concedes that her prior habeas petition was denied. *Corrales Castillo v.*
4 *Wamsley*, No. 2:25-cv-02172-TMC, 2025 WL 3204370, at *2–3 (W.D. Wash. Nov. 17, 2025).
5 She further acknowledges that the same court that decided *Rodriguez Vazquez* adjudicated that
6 petition. Notwithstanding these facts, Petitioner now asks this Court to revisit the same issues in
7 hopes of obtaining a different outcome. Pet. ¶¶ 103-110 (Claims for Relief, Count III). The abuse-
8 of-the-writ doctrine forecloses this attempt and renders Claim III unlikely to succeed on the
9 merits.

10 As an initial matter, the prior court determined that Petitioner is detained pursuant to 8
11 U.S.C. § 1226(a). Detention under § 1226(a) provides a specific mechanism for release: a bond
12 hearing before an immigration judge. That bond hearing constitutes the process that is due.
13 Petitioner concedes she has already received that process. An immigration judge conducted a
14 bond hearing and determined that Petitioner posed both a flight risk and a danger to the
15 community and therefore denied bond. Dkt. 3-11. Accordingly, Petitioner has already been
16 afforded the very due process she now seeks to compel through this action.

17 Petitioner's present challenge to her detention therefore fails for two independent reasons.
18 First, her detention remains lawful under § 1226(a) following a constitutionally sufficient bond
19 hearing. Second, the lawfulness of that detention, and the adequacy of the process provided, has
20 already been litigated and rejected in her prior habeas proceeding in this District, in which she
21 was represented by the same counsel.

22 The abuse-of-the-writ doctrine "generally forbids the reconsideration of claims that were
23 or could have been raised in a prior habeas petition." *Alaimalo v. United States*, 645 F.3d 1042,
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1 1049 (9th Cir. 2011) (quotations and citations omitted). Here, Petitioner previously raised, or had
2 a full and fair opportunity to raise, the claims and underlying facts she now presents. Her current
3 petition is thus an impermissible attempt to relitigate issues already decided.

4 Because Petitioner was aware of all relevant facts, including the denial of bond, at the
5 time of her earlier habeas proceeding, and offers no justification for failing to raise any additional
6 arguments then, the abuse-of-the-writ doctrine bars her claims. On this basis alone, her claims
7 fail.

8 Even if this Court were inclined to consider Petitioner's bond-related claims anew, they
9 would still fail because she has already received a constitutionally adequate bond hearing, all the
10 process she is due, and all that the Constitution requires.

11 2. Petitioner Received a Constitutionally Adequate Bond Hearing

12 Petitioner fails to establish a due process violation. *Mathews v. Eldridge*, 424 U.S. 319,
13 334–35 (1976). Any such analysis must “weigh heavily” the principle that “control over matters
14 of immigration is a sovereign prerogative, largely within the control of the executive and the
15 legislature.” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982); *see also El Rescate Legal Servs., Inc.*
16 *v. Exec. Off. of Immigr. Rev.*, 959 F.2d 742, 750 (9th Cir. 1991); *Rodriguez Diaz*, 53 F.4th at
17 1213.

18 Application of the *Mathews* factors confirms that Petitioner received all the process she
19 was due. As to the first factor, while freedom from physical restraint is a significant liberty
20 interest, *see Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004), the Supreme Court has made clear
21 that in the immigration context the Constitution permits “rules that would be unacceptable if
22 applied to citizens.” *Rodriguez Diaz*, 53 F.4th at 1207 (quoting *Demore v. Kim*, 538 U.S. 510,
23 522 (2003)); *see also Miranda v. Garland*, 34 F.4th 338, 359 (4th Cir. 2022). Moreover, the Court
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1 must consider both the process already provided and the additional process available. *Rodriguez*
2 *Diaz*, 53 F.4th at 1208. Given the procedures afforded here, this factor does not weigh heavily in
3 Petitioner's favor. *See* Dkt. 3 ¶¶ 8-18; Dkt. 3-11; *see also Arshad v. Noem*, No. C26-726-RSM,
4 2026 WL 864737, at *3 (W.D. Wash. Mar. 30, 2026).

5 The second *Mathews* factor likewise favors Respondents. The statutory and regulatory
6 framework governing custody determinations provides meaningful safeguards against erroneous
7 deprivation while advancing the Government's interest in ensuring appearance at removal
8 proceedings. *Rodriguez Diaz*, 53 F.4th at 1209–10. Bond proceedings are intentionally less formal
9 than merits hearings, as reflected in the governing statutes and regulations. *Compare* 8 U.S.C. §
10 1229a(b)(4)(C) *with* 8 U.S.C. § 1226; *see also* 8 C.F.R. § 1003.19(d); *Matter of Guerra*, 24 I&N
11 Dec. 37, 40 n.2 (BIA 2006).

12 To the extent Petitioner relies on now-abrogated procedural requirements, that reliance is
13 misplaced. As recognized, “[k]ey aspects” of *Singh* “are no longer good law,” and it did not
14 establish universally applicable constitutional procedures. *Rodriguez Diaz*, 53 F.4th at 1196; *but*
15 *see* Pet. at 9. Consistent with governing practice, immigration judges typically render oral
16 decisions in bond proceedings and prepare written decisions only upon appeal. *See* Immigration
17 Court Practice Manual ch. 8.3(e)(7). Courts have acknowledged that these procedures, including
18 the absence of contemporaneous transcripts or written decisions, are standard. *See Joseph v.*
19 *Holder*, 600 F.3d 1235, 1241 n.5 (9th Cir. 2010); *Miti v. Moniz*, 2026 WL 884639, at *5 n.12 (D.
20 Mass. 2026).

21 Here, the record reflects that Petitioner received a full and fair bond hearing. She had the
22 opportunity to present evidence and argument, and the immigration judge issued a reasoned
23 decision after considering the record. *See* 8 C.F.R. §§ 1003.19(d), (f). This process satisfies due
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1 process. *Rodriguez Diaz*, 53 F.4th at 1213–14; *see also Borbot v. Warden Hudson Cnty. Corr.*
2 *Facility*, 906 F.3d 274, 279 (3d Cir. 2018); *Miranda*, 34 F.4th at 366.

3 The third *Mathews* factor further supports the adequacy of the procedures used. Congress
4 has afforded the Executive broad discretion in detention determinations, reflecting a substantial
5 governmental interest in ensuring the orderly administration of immigration laws. *Demore*, 538
6 U.S. at 521. Due process does not require the Government “to employ the least burdensome
7 means,” *id.* at 528, nor to eliminate all risk of error. *Rodriguez Diaz*, 53 F.4th at 1213.

8 In sum, Petitioner received a meaningful opportunity to be heard at a meaningful time and
9 in a meaningful manner, which is all the Constitution requires. *Mathews*, 424 U.S. at 333.

10 3. The IJ Conducted a Meaningful Individualized Determination

11 Petitioner’s assertion that the immigration judge failed to conduct an individualized
12 determination is unsupported. She has not overcome the presumption that the adjudicator
13 considered all relevant evidence. *See Larita-Martinez v. INS*, 220 F.3d 1092, 1095–96 (9th Cir.
14 2000). Indeed, she admits the IJ considered the evidence but disagrees with the conclusion he
15 reached. Dkt. 3 ¶ 14; Dkt. 3-11. Due process does not require additional individualized procedures
16 beyond those established by Congress. *Rodriguez Diaz*, 53 F.4th at 1214 (Bumatay, J.,
17 concurring). This claim therefore does not present a viable basis for relief.

18 4. Burden of Proof and Legal Sufficiency of the IJ’s Findings

19 The burden rests on the noncitizen to demonstrate eligibility for release on bond.
20 *Youngchun Kim*, 2026 WL 948347, at *2 (citing *Guerra*, 24 I&N at 40); *see also Matter of R-A-*
21 *V-P-*, 27 I&N Dec. 803, 805 (BIA 2020). Immigration judges may consider a range of factors,
22 including ties to the community, prior compliance with court proceedings, criminal history, and
23 risk of flight.

Judicial review of these determinations is limited to abuse of discretion. *Anyanwu v. Bondi*, 2025 WL 3466910, at *4 (W.D. Wash. Oct. 6, 2025); *Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024). Courts may not reweigh evidence but instead assess whether the decision reflects legal error or lacks evidentiary support. *Id.* at 785; *Hilario Pankim v. Barr*, 2020 WL 2542022, at *8.

Petitioner has not met that standard. The immigration judge evaluated the evidence and determined that she failed to demonstrate she was neither a flight risk nor a danger. Dkt. 3-11. Disagreement with that outcome does not establish a constitutional violation, nor does it authorize this Court to revisit discretionary factual findings. *See Sales v. Johnson*, 323 F. Supp. 3d 1131, 1138–39 (N.D. Cal. 2017).

5. No Requirement to Consider Alternative Conditions or Bond Amount

Petitioner's contention that the immigration judge was required to consider alternative conditions of release or set a bond amount lacks legal support. Neither the statute nor the Constitution imposes such a requirement once a finding of flight risk or dangerousness is made. *Martinez*, 124 F.4th at 786; *Miranda*, 34 F.4th at 364.

Bond determinations fall within the broad discretionary authority granted under 8 U.S.C. § 1226(e), which precludes judicial review of such decisions. *See also Prieto-Romero v. Clark*, 534 F.3d 1053, 1067 (9th Cir. 2008). Courts are not permitted to second-guess the immigration judge's discretionary assessment regarding the necessity or amount of bond.

Petitioner's reliance on *Hernandez v. Sessions* is misplaced. That case involved prolonged detention and addressed an immigration judge's obligation to consider the noncitizen's ability to pay after determining release was appropriate, not whether release should be granted in the first instance. *Hernandez*, 872 F.3d 976, 984–85, 994 (9th Cir. 2017).

1 Here, the immigration judge determined that Petitioner failed to meet her burden and that
2 no bond or alternative conditions would adequately mitigate flight risk. Dkt. 3-11. That
3 determination is discretionary and unreviewable. 8 U.S.C. § 1226(e).

4 * * *

5 In sum, Petitioner identifies no colorable constitutional violation or legal error. Her
6 petition amounts to an impermissible request for this Court to reweigh the evidence and second-
7 guess discretionary determinations. Because she cannot demonstrate a likelihood of success on
8 the merits, or even serious questions going to the merits, the Court need not reach the remaining
9 *Winter* factors. *Geo Group*, 151 F.4th at 1114.

10 **C. Petitioner Has Not Shown Irreparable Harm.**

11 To obtain a TRO, Petitioner must demonstrate that irreparable harm is likely in the
12 absence of immediate relief. *Winter*, 555 U.S. at 20. That standard requires more than a showing
13 of hardship; the harm must be both imminent and incapable of remedy through the ordinary course
14 of litigation.

15 Petitioner does not meet that burden. She asserts that her harm arises from the death of
16 her nephew and the resulting inability to be present with family. While that circumstance is
17 serious, Petitioner does not establish that the harm she identifies is caused by a legally cognizable
18 deficiency in her detention or that it is the type of injury that can be remedied through the
19 extraordinary relief she seeks here. Nor does she show that such harm is imminent in a manner
20 that justifies immediate judicial intervention.

21 As stated above, the record does not indicate that Petitioner sought other available avenues
22 that could address the situation she identifies, such as requesting humanitarian consideration or
23 temporary leave to attend the funeral from ICE. The apparent availability of such mechanisms
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1 further suggests that the asserted harm is not of the character requiring emergency relief from this
2 Court. On this record, Petitioner has not demonstrated a likelihood of irreparable harm, and her
3 request for extraordinary relief should be denied.

4 **D. The Balance of Equities and Public Interest Weigh Against Relief.**

5 The final two Winter factors merge when the Government is a party. *Padilla v. Immigr.*
6 *& Customs Enf't*, 953 F.3d 1134, 1141 (9th Cir. 2020). Both factors weigh against the
7 extraordinary relief Petitioner seeks.

8 The Government maintains a substantial and well-recognized interest in the orderly
9 administration and enforcement of the immigration laws enacted by Congress. *See* 8 U.S.C. §
10 1252(g). That interest includes ensuring that custody determinations are made through the
11 established statutory and regulatory framework, and that removal proceedings proceed in an
12 orderly and consistent manner. Judicial intervention that overrides those processes, particularly
13 in the absence of a clear constitutional violation, undermines that framework and the deference
14 owed to the political branches in matters of immigration.

15 By contrast, Petitioner has not identified an equitable interest sufficient to outweigh these
16 considerations. As discussed, she has not demonstrated a likelihood of success on the merits or
17 irreparable harm. Nor has she shown that the equities favor bypassing available administrative
18 mechanisms in favor of immediate judicial relief.

19 Under these circumstances, both the balance of equities and the public interest weigh
20 against issuance of a temporary restraining order.

21 **IV. CONCLUSION**

22 Petitioner is not entitled to a temporary restraining order under General Order 10-25. In
23 the alternative, Petitioner has not demonstrated a clear entitlement to release. Under *Winter*, the
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1 balance of equities and the public interest weigh against the extraordinary relief she seeks.

2 Dated this 26th day of April, 2026.

3 Respectfully submitted,

4 s/ Alixandria K. Morris

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13 I certify that this memorandum contains 3,036
14 words, in compliance with the Local Civil Rules.