

MICHELE BECKWITH
Acting United States Attorney
MICHELLE RODRIGUEZ
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SERGIO MEDRANO,

Petitioner,

v.

U.S. ATTORNEY GENERAL BONDI, ET AL,¹

Respondents.

CASE NO. 1:25-CV-00166-EPG

OPPOSITION TO MOTION FOR
TEMPORARY RESTRAINING ORDER

Respondent opposes Petitioner's motion for a temporary restraining order ("TRO"). ECF 3. By his TRO motion, Petitioner does not seek to maintain the status quo against irreparable injury pending a determination on the merits. Instead, he seeks only to obtain, by means of a TRO, the ultimate relief he demands in this case. *See* ECF 1 at 25-26; ECF 3 at 22. Such use of a TRO motion is improper. This EDCA court-of-custody should follow its own precedent and deny the TRO. *See Keo v. Warden of Mesa Verde Ice Processing Center*, Slip Op., 2024 WL 3970514, (E.D. Cal. August 28, 2024). *See also Mendez v. U.S. Immigrations and Customs Enforcement*, 2023 WL 2604585 (N.D. Cal. Mar. 15, 2023); *Doe v. Bostock*, 2024 WL 2861675 (W.D. Wash. June 6, 2024).²

¹ Respondent moves to strike and to dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief may only name the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996). *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).

² Ninth Circuit docket and updated criminal history for Medrano are filed herewith as Exhibit 1.

I. BACKGROUND

On 3/3/2015, Petitioner was detained by DHS and placed into detained removal proceedings. *See* ECF 3 at 7-8; ECF 1-1 at 29-55. On 4/1/2015, although Petitioner conceded removability before an Immigration Judge, the Immigration Judge nevertheless granted Petitioner a bond. On 6/27/2017, after Petitioner committed crimes while on bond, DHS apprehended and detained him again (following his release from state custody). *Id. See also* ECF 1-1 at 12-14. For a second time, on 8/1/2017, despite Petitioner's criminal history, an Immigration Judge granted him a bond. Thereafter, Petitioner again continued to commit crimes while on bond. Most recently, on 6/22/2023, DHS detained Petitioner upon his release from state custody. *Id.*

In detained removal proceedings before an Immigration Judge, Petitioner had several court hearings on his application for relief (asylum) from removal. *See* ECF 1-1 at 12-14, 29-55; ECF 3 at 7-8, 9-12. On 1/22/2024, the Immigration Judge denied Petitioner's application and ordered him removed to Mexico. On 4/22/2024, through Petitioner's appeal to the Board of Immigration Appeals (BIA), his removal (denial of application for relief) was affirmed. *Id.* On 6/3/2024, Petitioner filed a Petition for Review (PFR) at the U.S. Court of Appeals for the Ninth Circuit. *Medrano v. Bondi*, No. 24-3474, along with a motion to stay removal (which upon filing automatically stayed his removal). At the Ninth Circuit, Petitioner has sought and obtained several extensions of time, including an unsuccessfully motion to stay appellate proceedings altogether. *See id.* During his pending Ninth Circuit appeal, Petitioner, on 11/15/24, filed a Motion to Reopen with the BIA, which motion is pending. Petitioner is presently held, pending removal proceedings, at the Mesa Verde ICE Processing Center located in Bakersfield, California.

II. ARGUMENT

Temporary restraining orders are governed by the same standard applicable to preliminary injunctions. *See Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). Preliminary injunctions are "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). Plaintiffs' burden

is aptly described as “heavy.” *Id.* A preliminary injunction requires “substantial proof” and a “clear showing.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis omitted). “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) (internal quotation omitted). 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).

As the purpose of preliminary injunctive relief is to preserve the status quo pending final adjudication on the merits, there is “heightened scrutiny” for mandatory preliminary injunctions, which is what Petitioner seeks, here.³ *Dahl v. HEM Pharms. Corp.* 7 F.3d 1399, 1403 (9th Cir. 1993). Where “a party seeks mandatory preliminary relief that goes well beyond maintaining the status quo *pendente lite*, courts should be extremely cautious about issuing a preliminary injunction.” *Martin v. International Olympic Committee*, 740 F.2d 670, 675 (9th Cir. 1984); *see also Committee of Cent. American Refugees v. Immigration and Naturalization Serv.*, 795 F.2d 1434, 1442 (9th Cir. 1986).

Here, Petitioner’s TRO motion is improper and should be denied. The purpose of a preliminary injunction is to preserve the status quo between the parties pending a resolution of a case on the merits. *See U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir 2010). To that end, “judgment on the merits in the guise of preliminary relief is a highly inappropriate result.” *Senate of Cal. v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992). By the instant TRO motion, Petitioner seeks only to alter the status quo by issuing an expedited order that would grant him the ultimate relief he seeks in his petition—while depriving Respondent (and this court-of-custody) an opportunity to address the merits.

Petitioner’s TRO motion presents a substantially similar situation to that in *Keo*, Slip Op., 2024 WL 3970514. *Accord Mendez*, 2023 WL 2604585, and *Doe*, 2024 WL 2861675. In *Keo*, the non-citizen alien in ICE detention filed both a petition and a TRO motion. *Id.* In *Keo* this court-of-custody,

³ “A mandatory injunction orders a responsible party to take action, while [a] prohibitory injunction prohibits a party from taking action and preserves the status quo pending a determination of the action on the merits.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1060-61 (9th Cir. 2014) (internal quotation omitted).

1 following *Mendez*, observed that “Petitioner summarily requests that he be released from custody or
 2 provided with a bond hearing, which is precisely the same ultimate relief sought in his underlying
 3 Petition” and, in denying the TRO this court-of-custody found “it is generally inappropriate for a federal
 4 court at the preliminary-injunction stage to give a final judgment on the merits.” *Id.* (citing *Mendez*
 5 2023 WL 2604585, at *3). This court-of-custody further found that the *Keo* TRO demand, as in the
 6 instant case, “in the guise of preliminary relief[,] is a highly inappropriate result.” *Id.* (citing *Senate of*
 7 *Cal.*, 968 F.2d at 978).

8 Like *Keo*, the relief Petitioner demands via TRO is not ‘temporary’ or ‘preliminary’ but rather is
 9 the same ultimate relief he demands in his underlying petition. This court-of-custody should follow well
 10 established law that it is inappropriate for a federal court at the preliminary-injunction stage to give a
 11 final judgment on the merits. *See Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981).

12 Similarly, *Doe*, 2024 WL 2861675, involved an even closer set of facts, where the petitioner was
 13 a non-citizen alien in DHS detention who filed a habeas petition and then sought the same relief in an
 14 expedited TRO motion. 2024 WL 2861675, at *2. In *Doe*, the court-of-custody denied the TRO motion
 15 and explained that Doe’s motion was inappropriate because she had “explicitly request[ed] a departure
 16 from the status quo and indeed requests the ultimate relief she seeks in this action.” *Id.* The same result
 17 is warranted, here. As in *Keo*, *Mendez*, and *Doe*, there is no irreparable harm that will occur in the
 18 absence of preliminary relief and altering the status quo. What’s more, neither the balance of equities,
 19 nor the public interest, supports a TRO that seeks the same ultimate relief as the underlying petition but
 20 deprives Respondent of a full and fair opportunity to answer.

21 For the foregoing reasons, it is respectfully requested that this court-of-custody dismiss the TRO
 22 demand. Petitioner, impermissibly seeking ultimate relief, has flatly failed his TRO burden.

23 Dated: February 18, 2025

MICHELE BECKWITH
 Acting United States Attorney

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 25 By: /s/ MICHELLE RODRIGUEZ
 MICHELLE RODRIGUEZ
 Assistant United States Attorney
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