District Judge John H. Chun
Chief Magistrate Judge Theresa L. Fricke

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

LAYEE M. SANOE, Petitioner, v. LEONARD J. ODDO, *et al.*, Respondents.	Case No. 2:25-cv-408-JHC-TLF FEDERAL RESPONDENTS' OPPOSITION TO PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER **Noted for consideration:** **March 7, 2025**

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

I. INTRODUCTION

Petitioner Layee M. Sanoe fails to make a clear showing that he is entitled to the extraordinary remedy of a temporary restraining order ("TRO"). Sanoe is a native of Guinea and a citizen of Liberia. Because his removal order recently became final, U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Sanoe pursuant to Section 241(a) of the Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1231(a). Sanoe asks this Court to issue a TRO releasing him from mandatory detention because he is a U.S. citizen. He is incorrect.

Sanoe entered the United States in 2007 as a refugee with his father, who is the principal beneficiary of the refugee classification. 8 U.S.C. § 1157(c)(1). As his child, Sanoe was a derivative beneficiary of his father's refugee status. 8 U.S.C. § 1157(c)(2)(A). As a derivative beneficiary, Sanoe was only entitled to the same immigrant status of the beneficiary. *See* 8 U.S.C. § 1153(d). Sanoe's father, after obtaining lawful permanent resident ("LPR") status, became a naturalized U.S. citizen in 2016. However, Sanoe never adjusted to LPR status and there is no "derivative LPR" status where a child automatically adjusts his status to LPR. Further, and most critical to the issue presented here, Sanoe was 20 years old when his father naturalized, in addition to not having LPR status. As a result, he is not automatically eligible for citizenship through his father's naturalization under 8 U.S.C. § 1431(a). Therefore, Sanoe is not a U.S. citizen.

This Court should deny Sanoe's motion for a TRO. Sanoe has not demonstrated that the law and facts clearly favor the grant of emergency mandatory injunctive relief here. He is not a U.S. citizen and is lawfully detained during the mandatory removal period. In the habeas petition and motion, Sanoe alleges claims concerning his conditions of confinement which are not cognizable as a habeas claim. *Pinson v. Carvajal*, 69 F.4th 1059, 1065 (9th Cir. 2023). However,

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Sanoe's allegations concern his prior detention at another facility and none of his allegations relate to his current detention at the Northwest ICE Processing Center ("NWIPC"). Thus, even if these claims were cognizable in habeas, he has not stated any claim concerning his current detention. Accordingly, for the purposes of this response to Sanoe's motion for a TRO, Federal Respondents will only be addressing his U.S. citizenship claim. This Court has jurisdiction to review Sanoe's claim of being a U.S. citizen in immigration detention. *Flores-Torres v. Mukasey*, 548 F.3d 708, 713 (9th Cir. 2008).

Federal Respondents respectfully request that the Court deny Sanoe's Motion. This Opposition is supported by the Declarations of Allison Williams ("Williams Decl.") and Michelle R. Lambert ("Lambert Decl.").

II. FACTUAL BACKGROUND

Sanoe is a native of Guinea and a Liberian citizen. Williams Decl., ¶ 3. He entered the United States in 2007 as a refugee with his father. *Id.* Sanoe's father thereafter adjusted his status to a LPR and naturalized to U.S. citizenship in 2016. Dkt. No. 4-1, Decision, dated Apr. 24, 2024, at ECF p. 3 of 47. In 2021, Sanoe was convicted in Delaware of Aggravated Assault. Williams Decl., ¶ 4. ICE took custody of Sanoe and started removal proceedings based on this conviction on December 5, 2023. *Id.*, ¶¶ 5-6. He was initially detained at the Moshannon Valley Processing Center in Philipsburg, Pennsylvania. *Id.*, ¶ 5. He was later transferred to the NWIPC in February of 2025. *Id.*, ¶ 10.

In March of 2024, Sanoe filed a Form N-600, an Application for Certificate of Citizenship, with U.S. Citizenship and Immigration Services ("USCIS"). Dkt. No. 4-1, Decision, dated Apr. 24, 2024, at ECF p. 3 of 47. He alleged that he was eligible to receive a Certificate of Citizenship "because [he] acquired U.S. citizenship under section 320 of the [INA]." *Id.* USCIS denied the

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

application finding that he had not established eligibility for a Certificate because he did not satisfy the requirements to automatically derive citizenship from his father's naturalization under 8 U.S.C. § 1431. *Id.*, at ECF pp. 3-4 of 47. Pursuant to Section 1431(a), a child who was born outside of the United States automatically acquires citizenship when all of the following have been met: (1) at least one parent is a citizen of the United States; (3) the child is under the age of 18; and (3) the child resides in the United States in the custody of the parent pursuant to LPR status. 8 U.S.C. § 1431(a). Specifically, USCIS denied Sanoe's application after finding "no evidence that [Sanoe's] status was adjusted to [LPR]," and that he was over the age of 18 at the time his father adjusted in 2016. Dkt. No. 4-1, Decision, dated Apr. 24, 2024, at ECF p. 3 of 47.

USCIS also addressed Sanoe's argument that the Child Status Protection Act ("CSPA"), Pub. L. 107-208 (Aug. 6, 2002), somehow preserved his age based on his being a derivative beneficiary of his father's refugee status. *Id.* USCIS clarified that the "CSPA preserves age for the purpose of obtaining immigrant status; for the child of a refugee, it preserves the age of a child who turns twenty-one (21) years old after a refugee application is filed to allow them to obtain derivative refugee status." *Id.*, at p. 4 of 47. USCIS further explained that the CSPA does not preserve a child's age for adjustment of status and naturalization. *Id.* Sanoe asserts that he administratively appealed USCIS's denial on December 26, 2024. Dkt. No. 4, Pet., ECF p. 3 of 13.

In April of 2024, Sanoe filed an application to adjust his status with USCIS based on his father's prior adjustment of status. Lambert Decl., Ex. A, Decision. USCIS denied the application after determining the following:

> An applicant adjusting status as a derivative beneficiary is only entitled to the same immigrant status as the principal beneficiary, if accompanying or following to join the principal beneficiary. *See* INA 203(d). Our records show that the principal beneficiary naturalized on December 28, 2016. Since the principal beneficiary is

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

already a naturalized citizen, you no longer qualify to adjust status as a derivative beneficiary. *See* INA 203(d).

Id.

On September 11, 2024, an Immigration Judge ("IJ") denied Sanoe's application for relief and ordered him removed to Liberia. Lambert Decl., Ex. B, Oral Decision of the IJ,[1] at 11. On February 21, 2025, the Board of Immigration Appeals ("BIA") affirmed the IJ's decision. Lambert Decl., Ex. B, BIA Order. Sanoe is now subject to an administratively final order of removal and ICE will begin the process for effecting his removal. Williams Decl., ¶¶ 11-12. He is in the 90-day removal period and is mandatorily detained pursuant to 8 U.S.C. § 1231(a).

III. LEGAL STANDARD

The standard for issuing a temporary restraining order is "substantially identical" to the standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). "It frequently is observed that a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing,* carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). For mandatory preliminary relief to be granted, Rahman "must establish that the law and facts *clearly favor* [his] position." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis in original).

And, "[w]here a party seeks mandatory preliminary relief that goes well beyond maintaining the status quo pendente lite, courts should be extremely cautious about issuing a

[1] Pursuant to 8 C.F.R. § 208.6, Federal Respondents have redacted specific details relating to the relief from removal that Sanoe has sought.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

preliminary injunction." *Martin v. International Olympic Committee*, 740 F.2d 670, 675 (9th Cir. 1984).

"A plaintiff seeking a preliminary injunction must show that: (1) [he] is likely to succeed on the merits, (2) [he] 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." *Id.* (internal quotation omitted). Alternatively, a plaintiff can show that there are "serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter* factors are satisfied." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation omitted).

The purpose of preliminary injunctive relief is to preserve the status quo pending final judgment, rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984). "A preliminary injunction can take two forms." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory injunction prohibits a party from taking action and 'preserves the status quo pending a determination of the action on the merits.'" *Id.*, (internal quotation omitted). "A mandatory injunction orders a responsible party to take action." *Id.*, at 879 (internal quotation omitted). "A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored." *Id.* (internal quotation omitted). "In general, mandatory injunctions are not granted unless extreme or very serious damage will result and are not issued in doubtful cases." *Id.* (internal quotation omitted). Where a plaintiff seeks mandatory injunctive relief, "courts should be extremely cautious." *Stanley v. Univ. of S. California*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation omitted). Thus, in a mandatory injunction request, the moving

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

party "must establish that the law and facts *clearly favor* [his] position, not simply that [he] is likely to succeed." *Garcia,* 786 F.3d at 740 (emphasis original).

Here, rather than preserving the status quo, Sanoe seeks mandatory injunctive relief in the form of an order requiring his immediate release.

IV. ARGUMENT

The Court should deny Sanoe's request for a TRO as he has failed to clearly establish a the requirements for preliminary mandatory relief.

A. Sanoe is not likely to succeed on the merits of his claim that he is a U.S. citizen unlawfully in immigration detention.

Likelihood of success on the merits is a threshold issue: "[W]hen a plaintiff has failed to show the likelihood of success on the merits, [the court] need not consider the remaining three *Winters* elements." *Garcia*, 786 F.3d at 740 (internal quotation omitted). To succeed on a habeas petition, Sanoe must show that he is "in custody in violation of the Constitution or laws or treaties of the United States." *See* 28 U.S.C. § 2241. Sanoe claims that he cannot be detained pursuant to the INA because he is a U.S. citizen. His claim lacks merit.

First, Sanoe is not a U.S. citizen. He wrongly asserts that he automatically acquired citizenship when his father naturalized in 2016. Under 8 U.S.C. § 1431, a child born outside of the United States automatically becomes a citizen of the United States when all the following conditions have been fulfilled:

> (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
>
> (2) The child is under the age of eighteen years.
>
> (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

8 U.S.C. § 1431(a).

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Sanoe concedes that he was 20 years old when his father naturalized in 2016. Pet., at ECF p. 2 of 13. It is therefore impossible for Sanoe to meet Section 1431's requirement that his father be a U.S. citizen before Sanoe turned 18 years old. 8 U.S.C. § 1431(a)(2). Sanoe tries to overcome this blockade to citizenship through his father by asserting that the CSPA preserves his age at the time his father applied for naturalization (when Sanoe was 17). Pet., at ECF p. 2 of 13. This is not how the CSPA works for a derivative refugee like Sanoe. *See generally* USCIS, Policy Manual, Chapter 7 – Child Status Protection Act, *available at* https://www.uscis.gov/policy-manual/volume-7-part-a-chapter-7#footnote-16 (last visited Mar. 8, 2025). Pertinent here, "[t]he CSPA protects a derivative refugee from aging out prior to his or her refugee admission, but such protection is not needed at the adjustment stage because a derivative refugee does not need to remain the spouse or child of the principal refugee in order to adjust status under INA 209." *Id.*, at n.6. And the CSPA provides no waiver of the requirement that a child of a U.S. citizen be under the age of 18 years old with a U.S. citizen parent to automatically acquire citizenship through 8 U.S.C. § 1431.

The IJ's decision interjects some confusion concerning the issue of whether Sanoe automatically adjusted his status to LPR when his father adjusted status in contradiction to USCIS's analysis in its denial of Sanoe's N-600. While Sanoe cannot establish that he adjusted his status to LPR as set forth in 8 U.S.C. § 1159, the Court need not reach a decision on this issue. Even if Sanoe had LPR status prior to turning 18 years old, it is undisputed that his father did not become a U.S. citizen until Sanoe was 20 years old. As a result, Sanoe is unlikely to succeed on the merits that he is a U.S. citizen.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Second, Sanoe's detention is lawful pursuant to the INA. When a final order of removal has been entered, a noncitizen enters a 90-day "removal period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security "shall remove the [noncitizen] from the United States." *Id.* To ensure a noncitizen's presence for removal and to protect the community from dangerous noncitizens while removal is being effected, Congress mandated detention:

> During the removal period, the [Secretary of Homeland Security][2] shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] release [a noncitizen] who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

8 U.S.C. § 1231(a)(2).

Sanoe's removal order became administratively final on February 21, 2025. Williams Decl., ¶ 11. Unless Sanoe is removed, ICE must detain Sanoe during the 90-day removal period until May 22, 2025. 8 U.S.C. § 1231(a)(1).

Accordingly, Sanoe is not likely to succeed on the merits of his claims.

B. Sanoe has not shown irreparable harm.

Sanoe has not demonstrated that he will suffer irreparable injury absent the mandatory injunctive relief he seeks. To do so, he must demonstrate "immediate threatened injury." *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *Los Angeles Memorial Coliseum Commission v. National Football League*, 634 F.2d 1197, 1201 (9th Cir.1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Moreover, mandatory injunctions are not granted unless extreme or very serious

---

[2] Although 8 U.S.C. § 1231(a)(2) refers to the "Attorney General" as having responsibility for detaining noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security ("DHS"). *See also* 6 U.S.C. § 251.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

damage will result. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 879 (internal citation omitted). "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.

Sanoe claims that he will suffer irreparable injury because he is a U.S. citizen and because his life was in danger at his former detention facility. Dkt. No. 6, TRO Motion. As described above, Sanoe is not a U.S. citizen. He is a lawfully detained noncitizen subject to a removal order. As for the purported dangers in the detention facility in Pennsylvania, Sanoe was transferred to the NWIPC in early February of 2025, so these allegations are not relevant to his current custody or present any immediate harm.

Accordingly, Sanoe has not made a clear showing that he will be subject to immediate irreparable injury without the requested mandatory injunctive relief.

C. The balance of the interests and public interests favor the Government.

It is well settled that the public interest in enforcement of United States' 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 Sanoe's private interest here. Sanoe's citizenship status has been reviewed by USCIS, the IJ, and the BIA. All have agreed that he is not a U.S. citizen. Sanoe seeks his release from immigration custody during the mandatory

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

90-day removal period, despite the Government's valid reasons and statutory bases for detaining him.

Accordingly, this Court should deny his Motion.

CONCLUSION

For all the foregoing reasons, Sanoe has not satisfied his high burden of establishing entitlement to mandatory injunctive relief, and his Motion should be denied.

DATED this 9th day of March, 2025.

Respectfully submitted,

TEALY LUTHY MILLER
Acting United States Attorney

s/ Michelle R. Lambert
MICHELLE R. LAMBERT, NY# 4666657
Assistant United States Attorney
United States Attorney's Office
1201 Pacific Avenue, Suite 1201
Tacoma, Washington 98402
Phone: 253-428-3824
Email: michelle.lambert@usdoj.gov

I certify that this memorandum contains 2,888 words, in compliance with the Local Civil Rules.

Attorneys for Federal Respondents