IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

H.I.D.R. and O.A.S., Petitioners–Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States, *et al.* Respondents-Defendants.	Civil Action No. 1:25-CV-60

RESPONSE TO MOTION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

On April 18, 2025, Petitioners-Plaintiffs ("Petitioners") filed an application for a Temporary Restraining Order ("TRO"). In that application, Petitioners allege that they "are in imminent danger of being removed from the United States" and urge the Court to enjoin their removal, any transfer out of the Northern District of Texas without notice to their counsel, and to require the government provide notice to Petitioners and their counsel of any designation as an Alien Enemy as well as any removal. TRO at 2.

The Court ordered Respondents-Defendants ("Respondents") to respond and answer three questions: 1) Whether the government intends to remove H.I.D.R. and O.A.S. pending the Court's resolution of the petitioners' request for a temporary restraining order; 2) Whether the government's view of the requirement in *Trump v. J.G.G.* of "judicial review" includes not removing H.I.D.R. and O.A.S. until their habeas petition is resolved, and, if not, what process will be provided to H.I.D.R. and O.A.S. before removal; and, 3) Any other matters that the government wishes to address in response to the petitioners' motion for a temporary restraining order. This response provides the answers to those three questions.

LEGAL STANDARD[1]

"An injunction is an extraordinary remedy and should not issue except upon a clear showing of possible irreparable injury." *Lewis v. S.S. Baune*, 534 F.2d 1115, 1121 (5th Cir. 1976).

A party seeking a preliminary injunction or temporary restraining order (TRO) must prove four elements:

1. a substantial likelihood of success on the merits of his case;
2. a substantial threat that the plaintiff will suffer irreparable injury;
3. that the threatened injury outweighs any harm that the injunctive order might cause the defendant; and
4. that the injunction is in the public interest.

Women's Med. Ctr. v. Bell, 248 F.3d 411, 419 n. 15 (5th Cir. 2001). Injunctive relief will be denied if the movant fails to prove any of these four elements. *Enter. Int'l, Inc. v. Corporacion Estatal Petrolera Ecuatoriana*, 762 F.2d 464, 472 (5th Cir. 1985). A federal court may issue a temporary restraining order without notice to the adverse party only if "specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(1)(A).

As courts of limited jurisdiction, federal courts must "affirmatively ascertain subject-matter jurisdiction before adjudicating a suit." *Nianga v. Wolfe*, 435 F. Supp. 3d

[1] The below legal standard is drawn from the Court's order in *Ehimare v. Barr*, 499 F. Supp. 3d 303, 307–08 (N.D. Tex. 2020).

739, 743 (N.D. Tex. 2020). "A party seeking a TRO cannot establish a 'substantial likelihood of success on the merits' of his claim if the court concludes that it lacks jurisdiction to adjudicate the claim altogether." *Id.*

ARGUMENT & AUTHORITIES

Responses to the Court's Specific Questions

1) Whether the government intends to remove H.I.D.R. and O.A.S. pending the Court's resolution of the petitioners' request for a temporary restraining order.

The government does not intend to remove H.I.D.R. or O.A.S. pending a decision on their requests for a temporary restraining order. H.I.D.R. and O.A.S.

2) Whether the government's view of the requirement in *Trump v. J.G.G.* of "judicial review" includes not removing H.I.D.R. and O.A.S. until their habeas petition is resolved, and, if not, what process will be provided to H.I.D.R. and O.A.S. before removal.

The government does not view the Supreme Court's decision as requiring a uniform set of procedures and instead to allow for procedures that are reasonable based on individual cases. That said, H.I.D.R. and O.A.S. will not be removed before their habeas petitions are adjudicated.

3) Any other matters that the government wishes to address in response to the petitioners' motion for a temporary restraining order.

In the attached order, in a related case, this Court denied an emergency application for a temporary restraining order filed by similarly situated individuals. In that order, this Court explained that denial by observing that: the Supreme Court

left no doubt as to the requirement for due process and judicial review; that the government had made manifest that the petitioners would not be removed while the litigation was pending; and that petitioners had failed to show sufficient imminent, irreparable injury. Attachment 1 at 4. As to recipients of notice who were active litigants, nothing had changed during the period between this Court's order and the filing of the latest emergency motion, other than notice being provided that they were subject to the Proclamation. Most notably, the government has not altered its statement to the court that petitioners will not be removed while litigation was pending.

Thus, for the same reasons this Court issued its previous order, it should likewise deny this request.

CONCLUSION

The motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April 2025, a true and correct copy of the foregoing was electronically filed with the Court's CM/ECF system, and I served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Nancy Safavi