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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 YOSTIN SLEIKER GUTIERREZ-
14 CONTRERAS,

15 Petitioner,

16 v.

17 WARDEN, DESERT VIEW ANNEX,
18 *et al.*,

19 Defendants.

No. 5:25-cv-00965-SSS-KES

**RESPONDENTS' OPPOSITION TO
PETITIONER'S PETITION FOR A
TEMPORARY RESTRAINING ORDER**

Hearing Date: April 25, 2025
Hearing Time: 8:00 a.m.
Ctm: Riverside Courthouse,
Ctm. 2

Honorable Sunshine S. Sykes
United States District Judge

**OPPOSITION TO PETITIONER’S PETITION FOR A TEMPORARY
RESTRAINING ORDER**

I. INTRODUCTION

The Court should deny Petitioner’s Petition for a Temporary Restraining Order (TRO), Dkt. 6, because Petitioner is not at imminent risk of summary removal and he cannot show a substantial threat of irreparable harm, because Respondents do not presently expect to remove Petitioner under the Alien Enemies Act (AEA). Currently, he remains in removal proceedings pursuant to the Immigration and Nationality Act (INA). Although the current legal landscape already requires notice to the extent Petitioner is removed pursuant to the AEA, Petitioner is only entitled to “reasonable notice,” rather than the definitive time frame he seeks here. Absent further notice from the United States Supreme Court, Respondents are prohibited from removing anyone pursuant to the AEA. Lastly, the Court does not have jurisdiction to enjoin the government’s transfer from Adelanto, California and/or Desert View Annex pursuant to 8 U.S.C Sections 1231(g)(1) and 1252(g). Accordingly, this Court should deny the instant Petition for a TRO because the facts currently do not warrant emergency relief.

II. STATEMENT OF FACTS

A. Petitioner’s Immigration and Detention History

On or about November 6, 2023, Petitioner, a citizen and national of Venezuela applied for admission into the United States from Mexico at the San Ysidro Port of Entry. *See* Ex.1, Record of Deportable/Inadmissible Alien, Form I-213. Petitioner did not possess a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid documents allowing him to enter or remain in the United States, thereby making him removable from the United States pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I). *See* Ex.2, Notice to Appear, Form I-862. Petitioner was paroled into the United States pending his removal proceedings. *See id.*

On March 19, 2025, U.S. Immigration and Customs Enforcement (ICE) executed a federal administrative warrant authorizing Petitioner’s arrest for being removable in the

1 United States and took Petitioner into ICE custody. Petitioner has remained in ICE
2 custody ever since, except for a brief period where he was released into U.S. Marshal
3 custody pending a detention hearing in a previously pending criminal matter where
4 Petitioner was the Defendant. *See United States v. Gutierrez-Contreras*, Case No. 5:25-
5 cr-00121-KK. The criminal case has since been dismissed. *See id.* at Dkt. 22 (order
6 dismissing Indictment without prejudice).

7 On or about March 31, 2025, Petitioner was in ICE custody at the Otay Mesa
8 Detention Center in San Diego, California. *See Gutierrez Contreras v. Warden, et al.*,
9 Case No. 5:25-cv-00911-SSS-KES, Resp't Mot. to Dissolve, Khan Decl. at ¶ 5 (Dkt. 12-
10 2). On or about April 2, 2025, Petitioner was transferred to the Desert View Annex in
11 Adelanto, California. *See id.* at ¶ 5. On April 14, 2025, Petitioner was transferred from
12 the Desert View Annex to the Bluebonnet Detention Center in Anson, Texas. *See id.* at ¶
13 6. Per order of the Court in *United States v. Gutierrez-Contreras*, Petitioner was
14 transferred back to Desert View Annex in Adelanto, California to appear for a status
15 conference on April 22, 2025. *See United States v. Gutierrez-Contreras*, Case No. 5:25-
16 cr-00121-KK, Dkt. 33. Petitioner remains in custody at Desert View Annex in Adelanto,
17 California. Currently, Petitioner is not scheduled for removal. *See id.* at ¶ 7.

18 **B. DHS' Notice Requirements¹**

19 In accordance with the Supreme Court's decision in *J.G.G.*, the government has
20 developed procedures for aliens newly subject to the Proclamation. Under those
21 procedures, an alien whom the government determines is subject to be removed as an
22 alien enemy will receive individual notice of that determination. The notice will be
23 provided to the alien in a language that the alien understands. And the notice will allow
24 the alien a reasonable time to file a petition for a writ of habeas corpus. These procedures
25 are being further developed.

26 **III. LEGAL STANDARD**

27 The standard for issuing a TRO is substantially identical to the standard for
28

¹ A declaration is forthcoming.

1 issuing a preliminary injunction. *See Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*,
2 240 F.3d 832, 839 n.7 (9th Cir. 2001). A “preliminary injunction is an extraordinary and
3 drastic remedy.” *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008). A district court should
4 enter a preliminary injunction only “upon a clear showing that the [movant] is entitled to
5 such relief.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008).
6 To obtain a preliminary injunction, the moving party must demonstrate (1) that it is
7 likely to succeed on the merits of its claims; (2) that it is likely to suffer an irreparable
8 injury in the absence of injunctive relief; (3) that the balance of equities tips in its favor;
9 and (4) that the proposed injunction is in the public interest. *Id.* at 20. These factors are
10 mandatory. As the Supreme Court has articulated, “[a] stay is not a matter of right, even
11 if irreparable injury might otherwise result” but is instead an exercise of judicial
12 discretion that depends on the particular circumstances of the case. *Nken v. Holder*, 556
13 U.S. 418, 433 (2009) (quoting *Virginian R. Co. v. United States*, 272 U.S. 658, 672
14 (1926)).

15 IV. ARGUMENT

16 A. Petitioner is not at imminent risk of summary removal and cannot 17 show a substantial threat of irreparable harm

18 The landscape has changed since Petitioner filed his prior petitions in Case No.
19 5:25-cv-00911-SSS-KES. First, Petitioner is now within the Central District of
20 California and Respondents have advised that Petitioner is not currently staged for
21 removal. *See Khan Decl.* at ¶ 7. Second, the United States Supreme Court has prohibited
22 removals under the Alien Enemies Act absent further order of the Court, which is
23 Petitioner’s concern. *See A.A.R.P. v. Trump*, 604 U.S. ___, 2025 WL 1147238 (April 19,
24 2025). Lastly, Petitioner’s request for notice prior to any removal under the Alien
25 Enemies Act is already required pursuant to *Trump v. J.G.G.*, 604 U.S. ___, 2025 WL
26 1024097 (April 7, 2025). While Petitioner seeks a 14-day notice period prior to removal
27 under the AEA, the government is not required to provide procedures that a reviewing
28 court or Petitioner finds “preferable”; instead, a court “must evaluate the particular

1 circumstances and determine what procedures would satisfy the minimum requirements
2 of due process.” *Landon v. Plasencia*, 459 U.S. 21, 35 (1982).

3 Those requirements are notice “reasonably calculated, under all the circumstances,
4 to apprise interested parties of the pendency of the action and afford them an opportunity
5 to present their objections,” *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306,
6 314, at a fundamentally fair hearing at a meaningful time and in a meaningful manner.
7 *Zuniga-Perez v. Sessions*, 897 F.3d 114, 122 (2d Cir. 2018); *Burger v. Gonzales*, 498
8 F.3d 131, 134 (2d Cir. 2007). Although due process cannot amount to “a mere gesture,”
9 process is not constitutionally flawed simply because some “possibility of conceivable
10 injury” to Petitioner remains. *Mullane*, 339 U.S. at 314–15. The government must only
11 “afford [Petitioner] a reasonable time . . . to make [his] appearance” and “present [his]
12 objections;” “if with due regard for the practicalities and particularities of the case these
13 conditions are reasonably met[,] the constitutional requirements are satisfied.” *Id.* What
14 specific procedures satisfy those requirements “varies with the circumstances.” *Landon*,
15 459 U.S. at 34.

16 Under those circumstances, the government’s procedures—individual notice in a
17 language the alien understands, and reasonable time to file a petition for a writ of habeas
18 corpus, affords Petitioner with the requisite notice. *Mullane*, 339 U.S. at 314; *J.G.G.*,
19 2025 WL 1024097, at *1–2.

20 **B. This Court lacks jurisdiction to enjoin the transfer of Petitioner outside**
21 **this district.**

22 The government may detain aliens pending removal proceedings under 8 U.S.C. §
23 1226(a) and removable aliens under § 1231(a). And the government must detain aliens
24 who are inadmissible or removable under certain provisions. *See id.* §§ 1226(c)(1),
25 1231(a)(2)(A). The INA bars this Court from entering injunctive relief with respect to
26 transfers. *First*, under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in
27 deciding where to detain Petitioners. The INA precludes review of “any . . . decision or
28 action of the Attorney General . . . the authority for which is specified under this

1 subchapter to be in the discretion of the Attorney General” 8 U.S.C. §
2 1252(a)(2)(B)(ii). Therefore, § 1252(a)(2)(B)(ii) bars relief that would impact where and
3 when to detain Petitioners. *See Van Dinh v. Reno*, 197 F.3d 427, 433–34 (10th Cir. 1999)
4 (citing *Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir. 1985)) (finding that judicial
5 review of decision to transfer a detainee is inappropriate due to lack of jurisdiction).

6 *Second*, § 1252(g) also bars enjoining transfers under Title 8. It prohibits district
7 courts from hearing challenges to decisions and actions about whether, when, and where
8 to commence removal proceedings. Reading the discretionary language in §§ 1231(g)(1)
9 and 1252(g) together confirms that Congress foreclosed piecemeal litigation over where
10 a detainee may be placed into removal proceedings. *See Liu v. INS*, 293 F.3d 36, 41 (2d
11 Cir. 2002) (habeas petition “must not be construed to be ‘seeking review of any
12 discretionary decision’” (quoting *Chmakov v. Blackman*, 266 F.3d 210, 215 (3d Cir.
13 2001))), superseded by statute on other grounds as recognized by *Ruiz-Martinez v.*
14 *Mukasey*, 516 F.3d 102, 113 (2d Cir. 2008); *see also Jimenez-Angeles v. Ashcroft*, 291
15 F.3d 594, 599 (9th Cir. 2002); *Tercero v. Holder*, 510 F. App’x 761, 766 (10th Cir.
16 2013) (Attorney General’s discretionary decision to detain aliens is not reviewable by
17 way of habeas.).

18 Accordingly, Congress has specifically barred judicial intervention with respect to
19 the government’s decision where to detain Petitioner. Therefore, this Court lacks
20 jurisdiction to enter an order enjoining the government from transferring Petitioner from
21 the Desert View Annex immigration detention facility and enjoining the government
22 from transporting Petitioner outside of Adelanto, California.

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V. CONCLUSION

Based on the foregoing, Respondents respectfully requests this Court to deny
Petitioner's Petition for a TRO because Petitioner will not be irreparably harmed and is
not in imminent risk of being removed pursuant to the Alien Enemies Act.

Dated: April 22, 2025

Respectfully submitted,

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