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11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13 WESTERN DIVISION  
14

15 LEONEL NAVARRETE  
HERNANDEZ,

16 Petitioner-Plaintiff,

17 v.  
18

19 TODD LYONS, Acting Director,  
Immigration and Customs Enforcement;  
ERNESTO SANTACRUZ, JR., Los  
20 Angeles Field Office, Acting Director,  
Immigration and Customs Enforcement,  
21 Enforcement and Removal Operations,

22 Respondents-Defendants.  
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No. 2:25-cv-05376-FWS-SK

**FEDERAL RESPONDENTS'  
OPPOSITION TO PETITIONER  
LEONEL NAVARRETE  
HERNANDEZ'S *EX PARTE*  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND ORDER  
TO SHOW CAUSE**

**[Filed Concurrently with the Declaration  
of Johana L. Jimenez]**

Hearing Date: June 18, 2025  
Hearing Time: 10:00 a.m.  
Ctm: 10D

Honorable Fred W. Slaughter  
United States District Judge

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Petitioner Leonel Alberto Navarrete Hernandez (“Petitioner”) is a citizen and native of the Republic of El Salvador. He is the subject of an Interpol Red Notice issued by the El Salvadorean authorities alleging aggravated homicide, aggravated extortion, and kidnapping, among other charges.<sup>1</sup> He now seeks a temporary restraining order (“TRO”).

Petitioner was detained by the U.S. Immigration and Customs Enforcement (“ICE”) on June 12, 2025. Declaration of Johana L. Jimenez, filed concurrently herewith (“Jimenez Decl.”) ¶ 10. Due to the protests and civil unrest in downtown Los Angeles, California, ICE Enforcement and Removal Operations (“ERO”) transported Petitioner to El Paso, Texas, where he is currently detained. *Id.* On June 13, 2025, Petitioner filed a Petition for Writ of Habeas Corpus (“Petition”) and an *ex parte* Application for Temporary Restraining Order seeking immediate release from ICE custody and enjoining Respondents from removing him from the United States. Dkt. 1, 4. On June 14, 2025, he moved *ex parte* for a Renewed Application for Temporary Restraining Order as to Stay of Removal (“Renewed Application”), seeking the same enjoinder relief as in the Application, which the Court granted. Dkt. 9, 11.

As a preliminary matter, no final order of removal has been issued; therefore, Respondents respectfully submit that the enjoinder request is not ripe. As to Petitioner’s contention that his detention is unlawful because he was released on bond over two years ago and has not violated the terms of his bond, 8 U.S.C. § 1226(b) allows the government to revoke a noncitizen’s bond “at any time.” Further, under § 1226(a), Petitioner himself could request a bond hearing. *See* Jimenez Decl. ¶ 11.

**II. STATEMENT OF FACTS**

Petitioner is a native and citizen of the Republic of El Salvador. Jimenez Decl. ¶ 3. He entered the United States at an unknown location without being admitted or paroled by

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<sup>1</sup> <https://www.interpol.int/en/How-we-work/Notices/Red-Notices/View-Red-Notices#2020-1873>.

1 an immigration officer. *Id.* ¶ 4.

2 On May 24, 2021, ERO Los Angeles Foreign Fugitive unit received a lead referral  
3 from Homeland Security Investigations, Gang Group, identifying Petitioner as the subject  
4 of an Interpol Red Notice and foreign arrest warrants issued by the Government of El  
5 Salvador for the crimes of deprivation of liberty, aggravated robbery, aggravated murder,  
6 aggravated attempted murder, murder, participation in an organized criminal group  
7 (MARA 18) and aggravated extortion. *Id.* ¶ 5. On November 22, 2022, ERO Los Angeles  
8 officers arrested Petitioner pursuant to a targeted enforcement operation in Los Angeles.  
9 *Id.* ¶ 6. ERO Los Angeles served Petitioner with a Notice to Appear, Form I-862, pursuant  
10 to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as an alien present in  
11 the United States without being admitted or paroled, or who arrived in the United States  
12 at any time or place other than as designated by the Attorney General. *Id.* On January 9,  
13 2023, the Immigration Judge granted Petitioner a bond in the amount of \$10,000. *Id.* ¶ 7;  
14 Dkt. 4-2, Exh. A. On January 11, 2023, Petitioner posted bond and was released from ICE  
15 custody. *Id.* ¶ 8.

16 On January 4, 2024, Petitioner filed a Form I-589 Application for Asylum and  
17 Withholding of Removal, seeking asylum, withholding of removal and protection under  
18 the United Nations Convention against Torture (“CAT”). *See* Dkt. 4-2, Exh. B. Removal  
19 proceedings before an IJ were held thereafter. *See id.* On May 19, 2025, the IJ issued a  
20 decision denying Petitioner’s application for asylum and for withholding of removal under  
21 Immigration and Nationality Act (“INA”) § 241(b)(3)(A). *See id.* The IJ further ordered  
22 that Petitioner be removed to El Salvador but granted withholding of removal under the  
23 CAT. *Id.*; Jimenez Decl. ¶ 9. On or about June 12, 2025, the Department of Homeland  
24 Security/ICE, filed an appeal of the IJ’s May 19, 2025 decision. *See* Dkt. 4-2, Exh. C.

25 On June 12, 2025, ERO took Petitioner into custody pursuant to INA § 236(b).  
26 Jimenez Decl. ¶ 10. Due to the protests and civil unrest in downtown Los Angeles, ERO  
27 transported Petitioner to El Paso, Texas where he is currently detained. *Id.* ¶ 11. On June  
28 13, 2025, Petitioner filed the Petition and this instant *ex parte* TRO Application, seeking

1 his immediate release from ICE custody and enjoining Respondents from removing  
2 Petitioner from the United States. Dkt. 1, 4. On June 14, 2025, Petitioner filed his *ex parte*  
3 Renewed Application seeking the same enjoinder relief as in the Application. Dkt. 9. On  
4 June 14, 2025, Petitioner filed a supplemental exhibit in support of his Renewed  
5 Application. Dkt 10.

### 6 **III. STANDARD OF REVIEW**

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

### 22 **IV. ARGUMENT**

#### 23 **A. Petitioner is Not Likely to Succeed on the Merits of His Claim.**

24 Likelihood of success on the merits is a threshold issue: “[W]hen ‘a plaintiff has  
25 failed to show the likelihood of success on the merits, [the court] need not consider the  
26 remaining three [elements].’” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015)  
27 (*en banc*) (quoting *Ass’n des Eleveurs de Canards et d’Oies du Quebec v. Harris*, 729  
28 F.3d 937, 944 (9th Cir. 2013)).



1 As a preliminary matter, there is no final removal order, so Petitioner's claim for  
2 relief from removal in his Petition is unripe. *Texas v. United States*, 523 U.S. 296, 300  
3 (1998) (“[a] claim is not ripe for adjudication if it rests upon contingent future event that  
4 may not occur as anticipated, or indeed may not at all[.]”). As to his re-arrest and detention  
5 claims, Petitioner was re-detained pursuant to 8 U.S.C. § 1226(b), which provides that the  
6 government “at any time may revoke a bond or parole authorized under subsection (a),  
7 rearrest the alien under the original warrant, and detain the alien.” 8 U.S.C. § 1226(b); 8  
8 C.F.R. §§ 236.1(c)(9), 1236.1(c)(9) (“[w]hen an alien who, having been arrested and taken  
9 into custody, has been released, such release may be revoked at any time in the discretion  
10 of the district director [and certain other federal officers] in which event the alien may be  
11 taken into physical custody and detained. If detained, unless a breach has occurred, any  
12 outstanding bond shall be revoked and canceled.”). The Bureau of Immigration Appeals  
13 has held that “where a previous bond determination has been made by an immigration  
14 judge, no change should be made by [the government] absent a change of circumstance.”  
15 *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981).

16 Here, the IJ's decision from May 19, 2025, denying Petitioner's application for  
17 asylum and for withholding of removal under INA § 241(b)(3)(A), and ordering that  
18 Petitioner be removed to El Salvador but granting withholding of removal under the CAT,  
19 is a changed circumstance. Petitioner, moreover, can request a bond hearing before an IJ  
20 to determine his continued detention at any time. *See* 8 U.S.C. § 1226(a); Jimenez Decl.  
21 ¶ 11.

22 Respondents respectfully submit that that the government has satisfied the factors  
23 outlined in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which are: (1) his private  
24 interest, (2) the risk of an erroneous deprivation and the value of additional procedures  
25 sought, and (3) the government's interest, including the burdens associated with the  
26 additional procedure sought. Specifically, with respect to the second element, the risk of  
27 erroneous deprivation is low, given that Petitioner can request a bond hearing. With  
28 respect to the third element, it is in the government's interest to detain Petitioner, at least

1 until the outcome of the bond hearing, given the serious criminal allegations against him  
2 in El Salvador.

3 **B. Petitioner is Not Likely to Suffer Irreparable Harm in the Absence of**  
4 **Preliminary Relief.**

5 The Supreme Court’s “frequently reiterated standard requires plaintiffs seeking  
6 preliminary relief to demonstrate that irreparable injury is *likely* in the absence of an  
7 injunction.” *Winter*, 555 U.S. at 22 (emphasis in original). “Issuing a preliminary  
8 injunction based only on a possibility of irreparable harm is inconsistent with our  
9 characterization of injunctive relief as an extraordinary remedy that may only be awarded  
10 upon a clear showing that the plaintiff is entitled to such relief.” *Id.* Conclusory or  
11 speculative allegations are not enough to establish a likelihood of irreparable harm. *Herb*  
12 *Reed Enters., LLC v. Florida Entm’t Mgmt., Inc.*, 736 F.3d 1239, 1250 (9th Cir. 2013);  
13 *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988)  
14 (“[s]peculative injury does not constitute irreparable injury sufficient to warrant granting  
15 a preliminary injunction.”); *Am. Passage Media Corp. v. Cass Commc’ns, Inc.*, 750 F.2d  
16 1470, 1473 (9th Cir. 1985) (finding irreparable harm not established by statements that  
17 “are conclusory and without sufficient support in facts”).

18 Here, Petitioner cannot demonstrate that irreparable injury is likely absent an  
19 injunction. As stated, he is not subject to a final removal order and can request a bond  
20 hearing before an IJ.

21 **C. The Balance of Equities Weigh in Favor of Denying Petitioner’s TRO**  
22 **Application.**

23 The final two factors required for a TRO—balancing of the harm to the opposing  
24 party and the public interest—merge when the Government is the opposing party. *See*,  
25 *e.g.*, *Nken, supra*, at 435. Courts must “pay particular regard for the public consequences  
26 in employing the extraordinary remedy of injunction.” *Weinberger v Romero-Barcelo*, 456  
27 U.S. 305, 312-13 (1982). In the instant case, the balance of equities and the public interest  
28 tip strongly in favor of Respondents.

1 The public interest in enforcement of United States immigration laws is significant.  
2 *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's House of Beef,*  
3 *Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“[t]he Supreme Court has  
4 recognized that the public interest in enforcement of the immigration laws is significant.”).  
5 Here, with respect to the removal claim, Petitioner is not currently subject to removal, as  
6 there is no final removal order. The public interest weighs in favor of denying the  
7 Application because Petitioner is the subject of an Interpol Red Notice and is wanted in  
8 connection of many serious crimes committed in his home country of El Salvador.  
9 Moreover, any order that grants “particularly disfavored” relief by enjoining the  
10 governmental entity from administering the statute it is charged with enforcing, constitutes  
11 irreparable injury to the Respondents and weighs heavily against the entry of injunctive  
12 relief. *Cf. New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977)  
13 (Rehnquist, J., in chambers).

14 **V. CONCLUSION**

15 For all the above reasons, the Respondents respectfully request that Petitioner  
16 Leonel Navarrete Hernandez’s application for a temporary restraining order be denied.

17 Respectfully submitted,

18 Dated: June 16, 2025

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**Certificate of Compliance under L.R. 11-6.2**

Counsel of record for Federal Defendants-Respondents certifies that this brief contains 1,935 words, which complies with the word limit of L.R. 11-6.1.