

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

VRAJ DILIPBHAI PATEL

PETITIONER

v.

CIVIL ACTION NO. 3:25-cv-00373-RGJ (*e-filed*)

JAILER JEFF TINDELL
SAMUEL OLSON, ACTING DIRECTOR
KRISTI NOEM, SECRETARY
PAM BONDI, ATTORNEY GENERAL

DEFENDANTS

**RESPONSE TO MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

The Court should deny Patel's motion for a temporary restraining order and preliminary injunction because there is no subject matter jurisdiction for the underlying action, and the factors related to such injunctive relief weigh against such an order.

Background

Aliens who enter the United States without authorization are subject to expedited removal proceedings. 8 U.S.C. § 1225. Petitioner Patel entered the United States illegally and was placed into removal proceedings, first under 8 U.S.C. § 1229a, and then under the expedited removal process set forth in 8 U.S.C. § 1225. (Doc. 1, PageID.1, 5, 9, ¶¶ 2, 24, 46; Doc. 12-2, PageID.71-72.). Aliens in expedited removal proceedings are subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). The Supreme Court has held that mandatory detention of aliens in expedited removal proceedings comports with due process. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 118-119 (2020). Dismissal of § 1229a proceedings and decisions to place aliens into expedited removal are not subject to judicial review. 8 U.S.C. §§ 1252(a)(2)(B)(ii), (b)(9); *Galindo-Romero v. Holder*, 640 F.3d 873, 877 (9th Cir. 2011); *Aguilar-Aguilar v. Napolitano*, 700 F.3d 1238, 1243 (10th Cir. 2012); 8 U.S.C. §§ 1252(a)(2)(B)(ii), (D);

Lukac v. Mayorkas, 22 C 7156, 2023 WL 3918967, at *4–5 (N.D. Ill. June 9, 2023); *Nobles v. Noem*, 24 C 9473, 2025 WL 860364, at *5–6 (N.D. Ill. Mar. 19, 2025). Patel’s petition fails to state a claim upon which relief can be granted and there is no subject matter jurisdiction for his petition.

I. Injunctive relief is an extraordinary remedy.

“A preliminary injunction is an extraordinary measure that has been characterized as ‘one of the most drastic tools in the arsenal of judicial remedies.’” *Bonnell v. Lorenzo*, 241 F.3d 800, 808 (6th Cir. 2001), quoting *Hanson Trust PLC v. ML SCM Acquisition Inc.*, 781 F.2d 264, 273 (2d Cir. 1986); see also *Winter v. National Resources Defense Counsel*, 555 U.S. 7, 24 (2008) (stating that a preliminary injunction is an extraordinary remedy). “[A] preliminary injunction is the strong arm of equity which should not be extended to cases which are doubtful or do not come within well-established principles of law.” *Id.*, citing *Detroit Newspaper Publishers Ass’n v. Detroit Typographical Union No. 18*, 471 F.2d 872, 876 (6th Cir. 1972). “The party seeking a preliminary injunction must ‘demonstrate a clear entitlement to the injunction under the given circumstances.’” *Bristol Health Care Invs., LLC v. Emkes*, No. 2:13-CV-137, 2013 WL 2403299, at *6 (E.D. Tenn. May 31, 2013), quoting *Entertainment Productions., Inc. v. Shelby County*, 545 F.Supp.2d 734, 740 (W.D. Tenn. 2008). “[T]he proof required for the plaintiff to obtain a preliminary injunction is much more stringent than the proof required to survive a summary judgment motion.” *Leary v. Daeschner*, 228 F.3d 729, 739 (6th Cir. 2000).

II. A temporary restraining order is inappropriate in this case.

The Sixth Circuit has set forth four factors relevant to the appropriateness of a temporary restraining order (TRO): “(1) whether the movant has a strong likelihood of success on the

merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the issuance of the injunction.” *Certified Restoration Dry Cleaning Network, L.L.C. v. Tenke Corp.*, 511 F.3d 535, 542 (6th Cir. 2007). “Federal courts use the same general standard for both temporary restraining orders and preliminary injunctions.” *S. Ohio Sand, LLC v. Preferred Proppants, LLC*, No. 16- CV-833, 2016 WL 1457773, at *2 (N.D. Ohio Apr. 14, 2016), citing *Northeast Ohio Coal. For Homeless & Serv. Employees Int’l Union, Local 1199 v. Blackwell*, 467 F.3d 999, 1009 (6th Cir. 2006). Examination of those four factors on a fair and full record demonstrates that neither a TRO nor a temporary injunction is appropriate under the facts of this case and applicable precedent. Patel has no likelihood of success on the merits; he does not demonstrate any tangible, much less irreparable, injury; the public interest is served by orderly and efficient administration of the laws, including laws providing for the removal of aliens who enter without authorization; and a TRO would impose substantial harm on others, including harms from interference with the orderly, efficient administration of the immigration laws and removals of aliens who enter without authorization.

A. Patel has no chance of success on the merits.

“To obtain a preliminary injunction, a plaintiff must demonstrate, among other things, a strong or substantial likelihood or probability of success on the merits.” *United of Omaha Life Ins. Co. v. Solomon*, 960 F.2d 31, 35 (6th Cir. 1992). Patel cannot prevail on the merits because there is no subject matter jurisdiction for his claims.

1. The Court lacks subject matter jurisdiction.

“It is elementary that ‘[t]he United States, as sovereign, is immune from suit save as it consents to be sued . . . , and the terms of its consent to be sued in any court define that court’s

jurisdiction to entertain the suit.” *United States v. Mitchell*, 445 U.S. 535, 538 (1980), quoting *United States v. Sherwood*, 312 U.S. 584, 586 (1941). In this case, there is no waiver of sovereign immunity, and a statute expressly prohibits jurisdiction for this action.

Congress has denied jurisdiction for judicial review of “any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien” under the immigration and nationality laws. 8 U.S.C. § 1252(g). A pending motion to dismiss lays out in detail that jurisdictional bar and its application to this case, including that habeas review of expedited removal is limited to three discrete matters that Patel does not raise in his petition. *Thuraissigiam*, 591 U.S. at 112. Specifically, Patel asks the Court to “enjoin Respondents from directly or indirectly enforcing, implementing, or otherwise taking any action or imposing any legal consequences—including removing Petitioner”. (Doc. 19-1, PageID.117, 122.). This is directly contrary to the jurisdictional bar in 8 U.S.C. § 1252(g).

The absence of subject matter jurisdiction means that Patel has no likelihood of success on the merits. A “complete lack of likelihood of success on the merits weighs heavily, even overwhelmingly, against the grant of an injunction.” *Bristol Health*, 2013 WL 2403299 at *10.

2. Patel’s petition fails to state a claim upon which relief can be granted.

Even if jurisdiction existed to examine the merits of his petition, Patel would have no chance of success on the merits. He is an alien who entered illegally, so he is subject to expedited removal, which mandates detention. 8 U.S.C. § 1225. That mandatory detention comports with due process. *Thuraissigiam*, 591 U.S. at 118-119. The dismissal of his § 1229a proceedings and placement in expedited removal are not subject to judicial review. 8 U.S.C. §§

1252(a)(2)(B)(ii), (b)(9); *Galindo-Romero*, 640 F.3d at 877; *Aguilar-Aguilar*, 700 F.3d at 1243; 8 U.S.C. §§ 1252(a)(2)(B)(ii), (D); *Lukac*, 2023 WL 3918967 at *4–5; *Nobles*, 2025 WL 860364 at *5–6.

Patel’s due process claims complain of procedure, and a “party cannot claim a property interest in the governmental procedure itself, but rather in the product of that procedure.” *Ogle v. Sevier Cnty. Reg’l Plan. Comm’n*, 838 F. App’x 913, 917 (6th Cir. 2020), quoting *Richardson v. Township of Brady*, 218 F.3d 508, 517–18 (6th Cir. 2000). Yet even if the Court agreed with Patel’s argument that he should remain in removal proceedings under 8 U.S.C. § 1229a, he would remain in custody, because the immigration judge in his § 1229a proceeding denied him bond. (Doc. 1, PageID.2, 6, 8, ¶¶ 6, 29, 31, 42.). Patel presents no viable theory under which the Court can find his detention to be unlawful. Of note, to date Patel has cited no case in which any Court has ever held an alien in his situation to be entitled to any additional process, or release.

“Establishing a substantive or procedural due process violation requires first showing ‘the existence of a constitutionally-protected property or liberty interest’ that was taken or infringed.” *Ogle*, 838 F. App’x at 917, quoting *Silver v. Franklin Twp. Bd. of Zoning Appeals*, 966 F.2d 1031, 1036 (6th Cir. 1992). “The party claiming the interest must demonstrate a ‘legitimate claim of entitlement’ to the benefit—that is, ‘more than an abstract need or desire for it’ and ‘more than a unilateral expectation of it.’” *Id.*, quoting *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972). Patel has no interest that was infringed; he entered the country illegally, and is subject to expedited removal; detention is mandatory in expedited removal, and comports with due process. (Doc. 1, PageID.1, 5, 9, ¶¶ 2, 24, 46; Doc. 12-2, PageID.71-72; 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); *Thuraissigiam*, 591 U.S. at 118-119. Even if Patel remained in

§ 1229a proceedings, his detention would continue, by order of the immigration judge. (Doc. 1, PageID.2, 6, 8, ¶¶ 6, 29, 31, 42.). In the absence of “a constitutionally-protected property or liberty interest’ that was taken or infringed”, *Ogle*, 838 F. App’x at 917, Patel fails to state a claim upon which relief can be granted.

Patel is proceeding in habeas, which means his relief is limited to release if his custody is found to be unlawful, but his custody is lawful (and mandatory) under 8 U.S.C. § 1225 (b)(1)(B)(iii)(IV), and the Supreme Court found that this mandatory detention comports with due process. *Thuraissigiam*, 591 U.S. at 118-119. For both procedural and substantive reasons, Patel’s petition offers no claim upon which relief can be granted.

B. Patel does not claim any tangible harm.

Patel argues that a risk of transfer “to another immigration detention center outside of Kentucky” would irreparably harm him because his habeas petition was filed here (Doc. 19-1, PageID.120), but he offers no reason why this constitutes irreparable harm. Patel articulates no other harm. (Doc. 19-1, PageID.120-121). Patel notes that his asylum claim is pending in Memphis, Tennessee, not Kentucky. (Doc. 19-1, PageID.121.). Patel could pursue habeas relief from any other detention facility, and he offers no reason to find that doing so while detained in Kentucky instead of elsewhere is advantageous to him or anyone else.

C. Issuance of the injunction could cause substantial harm to others.

ICE has hundreds of thousands of illegal entrants to process for asylum or removal. *Thuraissigiam*, 591 U.S. at 106. ICE has operational and budgetary considerations that are disrupted by court orders prohibiting transfer and removal of aliens, and disruption of those processes could cause harm to other aliens awaiting determinations and removal. The

government's discretion in handling those interests are explicitly and intentionally shielded from judicial interference by 8 U.S.C. § 1252(g).

D. Patel's requested relief is contrary to the public interest.

"[A] court should be particularly cautious when contemplating relief that implicates public interests". *Salazar v. Buono*, 559 U.S. 700, 714 (2010), citing *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982) ("In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction"); see also *Harrisonville v. W.S. Dickey Clay Mfg. Co.*, 289 U.S. 334, 338 (1933) ("Where an important public interest would be prejudiced, the reasons for denying the injunction may be compelling"). As mentioned above, ICE has hundreds of thousands of illegal entrants to process for asylum or removal. *Thuraissigiam*, 591 U.S. at 106. ICE has operational and budgetary considerations that are disrupted by court orders prohibiting transfer and removal of aliens, and those interests are explicitly and intentionally shielded from judicial interference by 8 U.S.C. § 1252(g).

Patel argues that public interests favor him because of a concern in "stopping unconstitutional conduct" (Doc. 19-1, PageID.121-122), but the Supreme Court has established that Patel's placement in expedited removal proceedings and his mandatory detention is constitutional. *Thuraissigiam*, 591 U.S. at 118-119. The public interest is served by faithful execution of the laws of the United States, including those that put aliens entering without authorization into expedited removal proceedings, and detaining them because Congress mandated that detention. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

III. If the Court grants any form of a temporary restraining order, it should require Patel to post a bond, in accordance with Fed. R. Civ. P. 65(c).

Fed. R. Civ. Pr. 65(c) mandates the court to require, in all applicable cases, that a movant for an injunction post security in an amount that the court considers proper to cover potential costs and damages to the enjoined or restrained party. The costs that Patel's requested relief would impose are unclear, and will remain so until the scope and duration of that relief, if any, are clear. For instance, ICE could incur additional and unnecessary costs by detaining Patel in the Oldham County Jail instead of in a different facility. Should Patel not obtain asylum, delay in execution of a final order of removal would impose additional and unnecessary costs on ICE while Patel remains in unnecessarily prolonged detention prior to removal. If the Court grants any injunctive relief in this matter, it should require Patel to post a bond commensurate with the costs any such relief would impose on the government.

Conclusion

The Court should deny Patel's motion for a temporary restraining order and preliminary injunction because there is no subject matter jurisdiction for his claims, he has no likelihood of success, his petition fails to state a claim upon which relief can be granted, and the other factors bearing on extraordinary relief weigh against him. His custody is lawful, mandated by statute, and held by the Supreme Court to comport with due process; he has no basis for any relief, injunctive or otherwise, in this action.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2025, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Plaintiff.

/s/ Jason Snyder
Jason Snyder
Assistant United States Attorney