UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA LAFAYETTE DIVISION

POURHOSSEINHENDABAD, *Petitioner*, v. TRUMP, *et al.*; *Respondents*.	Civil Action No. 1:25-cv-00987 Judge Dee D. Drell Magistrate Judge Joseph H.L. Perez-Montes

PETITIONER'S OPPOSITION TO MOTION

INTRODUCTION

Petitioner, Pouria Pourhosseinhendabad ("Petitioner" or "Pouria"), submits this opposition to Respondents' motion to vacate; alternative request to file an objection to the report and recommendation ("R&R") granting the Temporary Restraining Order ("TRO"); and motion to dismiss. *See* ECF No. 10 ("Resp. Mot."). As an initial matter, now that the R&R granting the TRO has been adopted, objecting to the issuance of the TRO is moot. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969) (an issue is moot when it is no longer live).

Separately, the motion to vacate should be denied because the issuance of the TRO—with an end date of July 31, 2025—comports with both the case law and Rule 65(b) of the Federal Rules of Civil Procedure ("Rule 65(b)"). *See United States v. Raddatz*, 447 U.S. 667, 676 (1980) (holding that ultimately, adjudicatory determinations must be made by the district court judge, and that the district court may give R&R's "such weight as their merit commands and the sound discretion of the judge warrants"); *Washington v. Riley*, No. CIV.A. 6:13-0612, 2013 WL 1879674, at *2 (W.D. La. May 3, 2013) ("the District Judge is 'waiting in the wings' and able to correct errors of the Magistrate Judge and rule on the issues presented in the motions if necessary").

Finally, while the parties agree that the hearing currently scheduled for July 24, 2025 is no longer necessary as a result of Petitioner's release on July 16, 2025, the motion to dismiss is premature. It remains premature because the parties are working to reach resolution on a restraint on Petitioner's liberty that occurred on his release date—specifically, Respondents' mandate that Petitioner be fingerprinted in order to collect his cellphone and to be released from the Central Louisiana ICE Processing Center in Jena, Louisiana. Such a restraint on Petitioner's liberty (to which he felt he had no choice but to acquiesce), is akin to a bail condition, over which federal courts maintain jurisdiction pursuant and subsequent to a petitioner's release. *See* Order Granting Release

at 1-2, *Khalil v. Trump,* No. 25-cv-01963 (D. N.J. Jun. 20, 2025); *see also Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1420540, at *9 (D. Vt. May 16, 2025) (outlining conditions of release on a bail motion).

FACTUAL BACKGROUND

Petitioner filed his habeas corpus petition on July 10, 2025. ECF No. 1. Summons were issued that day. ECF No. 2. As service was initiated but incomplete, Petitioner provided a courtesy copy of the petition to Respondents via email on July 11, 2025. On that same day, Petitioner provided notice to Respondents that he planned to file (1) a TRO seeking to enjoin Respondents from further detaining him; and (2) a motion to expedite consideration of that motion. Respondents opposed both motions. Petitioner, noting Respondents' objections, proceeded to file both motions on July 11, 2025. *See* ECF. No. 3 (Mot. for TRO); ECF No. 4 (Mot. to Expedite).

On July 14, 2025, the next business day, counsel for Respondents entered an appearance in this matter, ECF No. 5, and the court proceeded to grant the motion to expedite, ECF No. 6, and issued an R&R supporting the grant of the TRO, ECF No. 7. The R&R, in accordance with 28 U.S.C. 636(b), noted that Respondents had 14 days to file objections. *Id.*

On the morning of July 16, 2025, counsel for Respondents informed Petitioner's counsel that Petitioner would be released that day. Separately, counsel for the government in Petitioner's pending immigration proceedings (which were initiated subsequent to Petitioner's arrest) informed Petitioner's immigration counsel that Petitioner's immigration proceedings would be completely dropped as well. Indeed, Petitioner's immigration proceedings were dropped on July 17, 2025, albeit without prejudice. *See* **Ex. 1** (immigration court order dismissing immigration proceedings against Petitioner without prejudice). And, while Petitioner was in fact released on July 16, 2025,

his release and ability to depart the facility with his cellphone was conditioned on him being fingerprinted. *See* **Ex. 2** (email exchange between counsel concerning restraint on Petitioner's liberty at release that counsel learned about on the evening of July 17, 2025).

The day following Petitioner's release, July 17, 2025, the District Court conducted *de novo* review of the entire record and granted Petitioner's TRO for a period of 14 days. *See* ECF No. 9. That order required Respondents to show cause why the writ of habeas corpus should not be issued.

Respondents proceeded to file the pending Motion on July 18, 2025.

ARGUMENT

I. Respondents' Motion to Vacate and Alternative Request to Object to the R&R Should Be Denied as the Law Empowers District Courts to Issue TROs Without Notice.

This Court followed both case law and Rule 65(b) when it granted the TRO in this matter. In light of the properly issued TRO, the alternative relief Respondents request—objecting to the R&R—is moot. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969) (an issue is moot when it is no longer 'live'). The TRO should not be vacated for two reasons. To begin, the law empowers federal district courts to issue TROs without notice. Further, this Court did not err in conducting *de novo* review of the record on its own initiative.

First, district court judges are empowered by Rule 65(b) to issue TROs, even without written or oral notice, where "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). Temporary restraining orders are meant to "preserv[e] the status quo and prevent[] irreparable harm just so long as is necessary to hold a hearing, and no longer." *Havlik v. United States,* No. 18-CV-0692, 2018 WL 5117282, at *1 (W.D. La. Oct. 19, 2018); *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974) (similar).

The TRO here was properly issued and should not be vacated because Respondents were placed on notice of the harm it sought to address, which was premised on a verified habeas corpus petition that sufficiently alleged irreparable harm.[1] Here, the habeas petition included "specific facts . . . [that] clearly show[ed] that immediate and irreparable injury. . . [could] result to [Petitioner] before Respondents could] be heard in opposition," and Respondents' counsel was timely placed on notice of the filing of the TRO. *Compare* Fed. R. Civ. P. 65(b)(1)-(2) (discussing notice requirements); *Gilscot-Guidroz Int'l Co. v. Milek*, No. CV 24-1409, 2024 WL 3011013, at *5 (E.D. La. June 3, 2024) (finding the procedural requirements for TRO met where a verified complaint was filed with reasonable efforts taken to provide notice to defendants), *with* ECF No. 3 (TRO Mot.) (Petitioner provided notice via email and sent courtesy copy of TRO to Respondents on July 11, 2025). Importantly, the Court did not issue its R&R until after Respondents' counsel filed an appearance in this matter. ECF Nos., 5 (Respondents' notice to appear), 7 (R&R), 9 (Order).[2]

Furthermore, there is no question that the TRO was necessary to "prevent potential irreparable harm [.]" ECF No. 7 at 4. Pouria's petition described how his unlawful detention was in

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[1] Respondents note in footnote that they oppose the TRO due to (1) this Court's lack of jurisdiction over the commencement of removal proceedings and claims directly connected thereto under 8 U.S.C. §1252(g); (2) the inapplicability of the Administrative Procedure Act ("APA"), and (3) the petitioner's inability to meet the requisite factors to obtain a TRO. As to argument (1), this Court determined that it had jurisdiction, ECF No. 8; as for argument (2), the APA claim is not dispositive of the relief sought and is tethered to a procedural due process analysis, *see United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Encino Motorcars, LLC v. Navarro,* 579 U.S. 211, 222 (2016); *Doe v. Noem*, No. 2:25-633, 2025 U.S. Dist. LEXIS 73660 at *5 (W. D. Wash. Apr. 17, 2025) (granting TRO to foreign national student and finding that the change in status was based on reasoning "inconsistent with agency regulations, which renders the decision invalid"); as for argument (3), Petitioner laid out in detail why he satisfies the standard for the TRO issued here in his memorandum of law in support of his TRO, ECF No. 3-1.

[2] Even if Petitioner's motion is construed as a motion for a TRO without notice, the TRO is still validly issued if the requirements of Rule 65 are met. Such a "no-notice" TRO is appropriate where the movant "provides specific facts which, if true, show [the movant] will suffer an immediate and irreparable loss before [the other party] can be heard in opposition to this motion." *Chow v. Defendant 1*, No. 24-CV-480, 2024 WL 1639029, at *3 (E.D. La. Apr. 16, 2024) (granting a TRO without notice where immediate and irreparable economic loss was pleaded); *see also Crossan v. Clohessy*, No. 2:18-CV-629, 2018 WL 4054865, at *1 (W.D. La. May 10, 2018) (granting a TRO after finding irreparable injury where a parent would have difficulty or inability to locate his minor child).

direct contravention of his valid F-1 student visa and his attendant rights under the Constitution. ECF No.1; *Booth v. Galveston Cnty.*, 2019 U.S. Dist. LEXIS 133937 at *56 (S.D. Tex. 2019) ("even temporary unconstitutional deprivations of liberty suffice to establish irreparable harm" (citing *Pugh v. Rainwater*, 483 F.2d 778, 782-83 (5th Cir. 1973)). Moreover, he alleged additional irreparable harms—including the loss of on-campus employment authorization; an inability to complete research; loss of time in his doctoral program; diminished career prospects; and reputational harm—all of which have been found by courts to support the granting of a TRO. ECF No. 3-1 at 13-14.; *see also Doe v. Noem,* No. 2:25-633, 2025 U.S. Dist. LEXIS 73660 at *18-*19 (W. D. Wash. Apr. 17, 2025) (collecting cases holding that loss of employment and interruption of educational programs constitute irreparable harm). In sum, Petitioner squarely satisfied the requirements of Rule 65(b)—namely, the submission of a verified petition with specific allegations concerning irreparable harm of which Respondents had been placed on notice.

Second, the fact that an R&R was issued with a briefing schedule did not prevent this Court from conducting a full de *novo review* of the record. By law, parties are entitled to a 14-day period within which to lodge any objections to a R&R issued by a magistrate judge. 28 U.S.C. 636(b)((1)(B). Any objections thereto would trigger *de novo* review by a district court judge concerning *those* portions of the R&R nonmovants oppose. 28 U.S.C. 636(b)(1)(C). In enacting this provision, "Congress intended to permit whatever reliance a district judge, in the exercise of sound judicial discretion, chose to place on a magistrate's proposed findings and recommendations." *See United States v. Raddatz*, 447 U.S. 667, 676 (1980) (citing Mathews *v.* Weber, 423 U.S. 261, 275 (1976)). Congress did not seek to prevent district court judges from *sua sponte* reviewing the entire record when faced with a request for a TRO to reimpose the status quo in order to prevent irrepa-

rable harm. *Id.* ("The legislative history [regarding 28 U.S.C. 636] discloses that Congress purposefully used the word *determination* rather than *hearing* [in delegating matters to MJs]], believing that Art. III was satisfied if the ultimate adjudicatory determination was reserved to the district court judge") (emphasis in original); *see also* Fed. R. Civ. P. 65(b)(1)(A)-(B). This is made even more plain by the case law, which requires district courts to review magistrate judge findings *not* objected to for plain error. *Pittman v. Cooley*, No. CV 23-2071, 2024 WL 263514, at *1 (E.D. La. Jan. 24, 2024), appeal dismissed, No. 24-30143, 2024 WL 4103616 (5th Cir. May 24, 2024).

Here, the Court had the authority to conduct *de novo* review of the complete record and, in doing so, adopted the R&R. ECF No. 9. That is, the Court functionally considered each part of the R&R *as if Respondents had objected to each part,* without requiring the Respondents to formally do so. *Compare Thomas v. Arn*, 474 U.S. 140, 154 (1985) ("Moreover, while the statute does not require the judge to review an issue de novo if no objections are filed, it does not preclude further review by the district judge, *sua sponte* or at the request of a party, under a de novo or any other standard"). Because, as here, the law allows district court judges to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge," 28 U.S.C. 636(b)(1)(C), this Court had the authority to adopt the R&R and issue Petitioner's requested TRO on the timeline it deemed fit. *See* Local Rule 73.1 ("Nothing in these rules will preclude the court, or a judge of this court, from conducting any proceeding itself rather than by a magistrate judge."); *see also Washington v. Riley*, No. CIV.A. 6:13-0612, 2013 WL 1879674, at *2 (W.D. La. May 3, 2013) ("the District Judge is 'waiting in the wings' and able to correct errors of the Magistrate Judge and rule on the issues presented in the motions if necessary").[3]

[3] *United States v. Rivera-Guerrero,* 377 F.3d 1064, 1070 (9th Cir. 2004) ("*Raddatz* makes clear that the delegation to magistrate judges of matters that implicate constitutional rights for proposed findings and recommendations is constitutional so long as the findings and recommendations are subject to de novo review by an Article III judge").

II. This Court Assumed Jurisdiction of the Habeas Petition Based on Petitioner's Liberty Interest and Should Allow the TRO to Run Its Course.

As for the motion to dismiss, this Court issued its TRO in light of the verified petition's allegations of Respondents' infringement of Petitioner's liberty interest. Considering Petitioner's counsel just learned of their client's concerns and liberty restraints during the late evening hours of July 17, 2025, they are actively seeking to resolve this issue with Respondents—and sent them an email to this effect that very evening. *See* **Ex. 2** (email exchange between counsel concerning Petitioner's fingerprinting). Because concerns relating to conditions of release are frequently decided by district courts pursuant and subsequent to the issuance of a TRO or preliminary injunction, Petitioner takes the position that dismissal of his entire case at this juncture (when the conditions of his release are under discussion with Respondents) is premature. *See, e.g., Rumsfeld v. Padilla*, 542 U.S. 426 (2004) ("[O]ur understanding of custody has broadened to include restraints short of physical confinement[.]"); *see also* Order Granting Release at 1-2, *Khalil v. Trump*, No. 25-cv-01963 (D. N.J. Jun. 20, 2025). (order granting release and providing guidance and reasons for release conditions); *see id.*, Text Order, ECF. No. 339 (ordering on July 7, 2025 that "[a]s discussed on the record during the June 20, 2025 hearing . . . [Mr. Khalil] is not required to report to an ICE office as a condition of release"); *see also Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1420540, at *9 (D. Vt. May 16, 2025) (outlining conditions of release on a bail motion).

In the event this Court seeks to close the matter now because release has occurred albeit with the liberty restraint (the fingerprinting) identified, Petitioner asks this Court to consider two potential alternatives. The first alternative asks the Court to close the case in light of the settlement in principle reached by the parties concerning Petitioner's release, but to allow the parties until the end of the TRO (July 31, 2025) to re-open the matter concerning any liberty restraint issue the

parties cannot not resolve during the settlement process. *See e.g.*, Order of Dismissal, *I.J. v. Harper*, No. 24-00327 (E. D. La. Aug. 6, 2024) (outlining similar parameters where settlement reached in principle). The second alternative option asks the Court to dismiss the matter without prejudice. *See e.g.*, Judgment of Dismissal, *Barahona-Martinez v. Mayorkas,* No. 23-1212 (Oct. 2, 2023 W.D. La.) (dismissing matter without prejudice where matter was not resolved by virtue of dispositive motion practice or on the merits).

Conclusion

For the foregoing reasons, Petitioner respectfully requests that the Court reject Respondents' Motion. Petitioner asks that the operative TRO remain in effect until July 31, 2025—at which point or before, the parties will have the opportunity to jointly seek dismissal of the case or request further clarification from the Court on release conditions imposed on Petitioner.

Dated: July 22, 2025

Respectfully submitted,

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** Pro hac vice application pending*