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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

GRIGORII FEDOROV,

Petitioner,

v.

WARDEN, ADELANTO ICE PROCESSING CENTER – DESERT VIEW FACILITY; ET AL.,

Respondents.

No. 5:25-cv-01956-JLS-SP

RESPONDENTS' OPPOSITION TO PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER

Honorable Josephine L. Staton
United States District Judge

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner Grigorii Fedorov, through his *pro se* next friend Maria Fedorova, filed a habeas petition and *ex parte* application for a temporary restraining order for his immediate release from detention on an order of supervision. An administratively final order of removal for Petitioner was entered on September 6, 2024. Petitioner's removal is stayed pending resolution of his Petition for Review by the Ninth Circuit Court of Appeals. Petitioner has been in immigration detention for approximately two months.

The Court should deny Petitioner's request for a TRO. Petitioner is not likely to succeed on the merits of his claim, as his detention is statutorily authorized pending resolution of his Petition for Review and is not prolonged.

II. STATEMENT OF FACTS

Petitioner is a citizen and native of Russia. (*See* Emergency Petition, ECF No. 1 at 9.) On September 6, 2024, a final order of removal was entered. (*Id.* at 4.) Petitioner filed a Petition for Review in the Ninth Circuit Court of Appeals. *See Fedorov, et al. v. Bondi*, No. 24-5864 (9th Cir. Sept. 26, 2024). That appeal remains pending, and Petitioner's removal is stayed pending resolution of the Petition for Review.

From December 2022 to approximately June 3, 2025, Petitioner was released in the community subject to monitoring and supervision. (ECF No. 1 at 9.) Petitioner was detained on June 3, 2025, and has been in immigration detention for approximately two months. (ECF No. 1 at 9, 12.)

III. STANDARD OF REVIEW

The standard for issuing a TRO is substantially identical to the standard for issuing a preliminary injunction. *See Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A "preliminary injunction is an extraordinary and drastic remedy." *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008). A district court should enter a preliminary injunction only "upon a clear showing that the [movant] is entitled to such relief." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008).

To obtain a preliminary injunction, the moving party must demonstrate that (1) it is likely to succeed on the merits of its claims; (2) it is likely to suffer an irreparable injury in the absence of injunctive relief; (3) the balance of equities tips in its favor; and (4) the proposed injunction is in the public interest. *Id.* at 20. These factors are mandatory. As the Supreme Court has articulated, "[a] stay is not a matter of right, even if irreparable injury might otherwise result." *Nken v. Holder*, 556 U.S. 418, 433 (2009) (quoting *Virginian R. Co. v. United States*, 272 U.S. 658, 672 (1926)). Instead, it is an exercise of judicial discretion that depends upon the circumstances of the particular case. *Id.*

Here, because Petitioner seeks mandatory injunctive relief via TRO provisions ordering his release and providing certain procedures for any future re-detention (as opposed to just prohibitory relief), the already high standard is "doubly demanding." *Garcia v. Google, Inc.*786 F.3d 733, 740 (9th Cir. 2015). Thus, Petitioner must establish that the law and facts *clearly favor* his position, not simply that he is likely to succeed. *Id.* Further, a mandatory preliminary injunction will not issue unless extreme or very serious damage will otherwise result. *Doe v. Snyder*, 28 F.4th 103, 114 (9th Cir. 2022).

Finally, where a litigant seeks their ultimate relief by preliminary injunctive relief that is improper since "judgment on the merits in the guise of preliminary relief is a highly inappropriate result." *Senate of California v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992).

IV. ARGUMENT

A. Petitioner Is Not Likely to Succeed on the Merits of His Claim.

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

Here, Petitioner's habeas claim is not supported. Petitioner has only been detained for approximately two months, which is not prolonged under relevant case law. *See*

Rodriguez Diaz, 53 F.4th at 1207 (discussing cases finding that detention beyond six months is prolonged). Consequently, Petitioner's reliance on *Zadvydas v. Davis*, 533 U.S. 678 (2001), is misplaced. Petitioner appears to argue that detention is calculated from the date of the administratively final order of removal (September 2024), regardless of the fact that Petitioner has only been detained for the last two months. In any event, the appropriate relief for Petitioner's alleged due process violation is not Petitioner's release or the Court substituting its judgment for that of the Department of Homeland Security. Accordingly, Petitioner is not likely to succeed on the merits of his claim.

B. Petitioner Fails to Carry His High Burden to Prove That He Is Likely to Suffer Irreparable Harm Unless the Court Issues the Requested TRO.

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

Here, while Petitioner would prefer to continue to litigate his removal out of custody, he has not submitted any evidence suggesting irreparable harm if he remains detained. Petitioner's statements and evidence regarding the impact of detention on his family do not satisfy this element. Consequently, Petitioner has not met his burden of

showing that he will suffer irreparable harm in the absence of issuance of a TRO.

C. The Balance of Equities Weigh in Favor of Denying Petitioner's TRO Application.

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

The public interest in enforcement of United States immigration laws is significant. *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant."). Moreover, any order that grants "particularly disfavored" relief by enjoining the governmental entity from administering the statute it is charged with enforcing, constitutes irreparable injury to Respondents and weighs heavily against the entry of injunctive relief. *Cf. New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers).

Here, Petitioner's requested relief would interfere with Respondents' enforcement of immigration laws without proper justification. Petitioner's detention is statutorily authorized pending resolution of his Petition for Review, including while his removal is stayed. To the extent he fears removal to Russia, his concerns are properly presented in the context of his ongoing immigration proceedings, not this habeas petition for release from immigration detention. Accordingly, the balance of equities and the public interest tip in favor of Respondents.

Finally, if the Court decides to grant relief, it should order a bond pursuant to Fed. R. Civ. P. 65(c), which states "The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court

considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c) (emphasis added).

V. CONCLUSION

For all the above reasons, Respondents respectfully request that Petitioner's *ex parte* application for a temporary restraining order be denied.

Dated: July 30, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned counsel of record for Respondents certifies that the memorandum of points and authorities complies with the word limit of L.R. 11-6.1.

Dated: July 30, 2025

Respectfully submitted,

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