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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JUAN CUEVAS GUZMAN, Petitioner, v. TONYA ANDREWS, ET AL., Respondents.	CASE NO. 1:25-CV-01015-SKO RESPONDENTS' OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER DATE: TIME: COURT: Hon. Sheila K. Oberto

OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER

On August 13, 2025, Petitioner Juan Cuevas Guzman ("the petitioner") filed an *ex parte* motion for temporary restraining order and preliminary injunction. ECF 3 ("Mot."). The Court should deny the motion for a TRO because the petitioner is trying to manufacture exigency and based on that exigency is demanding that the Court create a new procedural rule that has never been recognized. The Court should decline the petitioner's request to create new law based on this manufactured exigency. Indeed, despite being lawfully detained in January 2025, the defendant waited seven months—and after his had successfully challenged a collateral conviction that warranted removal—to file a TRO demanding immediate action by the Court and Respondents. A TRO is not the appropriate mechanism to attack a valid removal proceeding or expedite resolution of a habeas petition. The Court should deny the motion because the petitioner

has failed to meet the threshold for extraordinary relief where the petitioner has failed to exercise ordinary diligence.

A. BACKGROUND

1. The petitioner was initially detained by immigration authorities in 2011 after unlawfully entering the United States.

Immigration and Customs Enforcement ("ICE") initiated removal proceedings after they learned that the petitioner had been convicted of his second domestic violence offense after unlawfully entering the United States. ECF 1-1, Exh. D. On December 11, 2011, the petitioner was detained by ICE pending removal proceedings. ECF 1-1 at 2; ECF 1-1, Exh. C. Subsequently, on December 20, 2011, an immigration judge ordered the petitioner released from ICE detention subject to conditions. ECF 1-1 at 2; ECF 1-1, Exh. F. The removal proceedings were dismissed on July 23, 2014, after the petitioner filed an application for a "U visa" through United States Citizenship and Immigration Service ("USCIS"). ECF 1-1 at 2. A "U visa" is intended for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement in the investigation of criminal activity.[1] USCIS denied the petitioner's application on April 20, 2016. ECF 1-1, Exh. J at 2–3.

2. Subsequent to be being released from immigration custody, the petitioner was arrested and convicted of another domestic violence offense.

In December 2019, the petitioner was arrested and booked into the Santa Rita Jail for annoying or molesting a child under 18, in violation of California Penal Code § 647.6(a)(1). ECF 1-1, Exh. J at 2. As a result of this arrest, ICE filed an immigration detainer for the petitioner. *Id.* The charges were later dismissed, however, the immigration detainer was not honored. *Id.* Approximately one year later, in 2020, the petitioner was arrested again and charged with a domestic violence offense.

[1] *See, e.g., Perez Perez v. Wolf*, 943 F.3d 853, 856–57 (9th Cir. 2019).

Subsequently, the petitioner was convicted of battery against a spouse, in violation of California Penal Code § 243(e)(1). ECF 1-1 at 6. Based on the petitioner's contact with law enforcement, the petitioner was targeted for arrest by immigration authorities because he "pose[d] a public safety threat due to his conviction for battery and a history of domestic violence cruelty towards [his] wife." ECF 1-1, Exh. J at 2. A "warrant for arrest of alien" against petitioner was signed on December 6, 2024. ECF 1-1, Exh. I.

3. Petitioner arrested by ICE and appears at hearings before immigration judge while pursuing administrative remedies.

The petitioner was arrested on January 25, 2025, by immigration authorities pursuant to the valid arrest warrant. ECF 1-1 at 2; ECF 1-1, Exh. I. Subsequently, Petitioner had a hearing in front of an immigration judge on March 18, 2025. ECF 1-1 at 2–3.

On May 5, 2025, the Alameda County Superior Court allowed the petitioner to withdraw his prior guilty plea to a misdemeanor domestic violence offense. ECF 1-1 at 3. As a result, the petitioner's conviction was vacated, not because he was actually innocent, but rather because he had not been informed of the potential immigration consequences of his guilty plea.

On June 6, 2025, the petitioner again appeared before an immigration judge for further proceedings. ECF 1-1 at 3. On July 3, 2025, five months after being detained, the petitioner filed a motion for custody redetermination. ECF 1-1 at 3.

On July 22, 2025, the petitioner appeared for a hearing regarding his request for a custody redetermination. ECF 1-1 at 4. The petitioner advanced that exact same arguments in the administrative proceeding that the petitioner is advancing in his TRO application. ECF 1-1 at 5; ECF 1-1, Exh. V. After the immigration judge rejected the petitioner's arguments for release, the petitioner appealed the determination up to the Board of Immigration Appeals. ECF 1-1 at 5. The appeal is still pending. ECF 1-1 at 5. The petitioner is next scheduled for a hearing before an immigration judge on September 8, 2025. ECF 1-1 at 5.

B. STANDARD OF REVIEW

Temporary restraining orders are governed by the same standard applicable to preliminary injunctions. *See Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). Preliminary injunctions are "extraordinary remedies." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Therefore, movants "seeking a preliminary injunction face a difficult task in proving that they are entitled to this extraordinary remedy." *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010).

"A plaintiff seeking a preliminary injunction must show that: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). Alternatively, a plaintiff can show "serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff]." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

The purpose of a TRO is to preserve the status quo and to prevent irreparable harm "just so long as is necessary to hold a hearing, and no longer." *Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 439 (1974). As the purpose of preliminary injunctive relief is to preserve the status quo pending final adjudication on the merits, there is "heightened scrutiny" for mandatory preliminary injunctions that require affirmative conduct, which is what the petitioner seeks here. *Dahl v. HEM Pharms. Corp.* 7 F.3d 1399, 1403 (9th Cir. 1993).

C. ARGUMENT

1. <u>The Court should deny the motion for a temporary restraining order because the petitioner unduly delayed seeking injunctive relief.</u>

Under Local Rule 231(b), the Court may deny a motion for a temporary restraining order where the applicant's delay "contradicts the applicant's allegations of irreparable injury." Here, the petitioner has filed a request for extraordinary relief in the form of an

ex parte temporary restraining order while failing to demonstrate ordinary diligence. The petitioner has been in ICE custody since January 25, 2025, yet nearly seven months later the petitioner is alleging irreparable injury in the form of continued detention. Mot. at 22. Nowhere in the motion does the petitioner address this contradiction. This is fatal to the petitioner's demand for exigent action by the Court in the form of a TRO.

2. <u>The petitioner inappropriately seeks a determination on the merits</u>.

As a threshold matter, the petitioner's TRO is an inappropriate request for an ultimate determination on the merits. The purpose of a preliminary injunction is to preserve the status quo between the parties pending a resolution of a case on the merits. *U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010). To that end, "judgment on the merits in the guise of preliminary relief is a highly inappropriate result." *Senate of Cal. v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992).

In his TRO, the petitioner does not seek to maintain the status quo against irreparable injury pending a determination on the merits. Instead, he requests the same relief he seeks on the merits, i.e., release from detention. *Compare* ECF 1 to ECF 3. Presenting the claim to the Court in this manner deprives the Court of complete and considered briefing on the merits of the petitioner's claim and inappropriately seeks "judgment on the merits in the guise of preliminary relief." *Senate of Cal.*, 968 F.2d at 978. Accordingly, the Court should deny the TRO motion. *See Keo v. Warden of Mesa Verde ICE Processing Center*, No. 1:24-CV-00919-HBK, 2024 WL 3970514 (E.D. Cal. Aug. 28, 2024) (denying the TRO of an in-custody detainee who sought the same relief as in the habeas petition finding "it is generally inappropriate for a federal court at the preliminary-injunction stage to give a final judgment on the merits."); *but see Maidel Arostegui Castellon v. Kaiser*, No. 1:25-CV-00968-JLT-EPG, 2025 WL 2373425 (E.D. Cal. Aug. 14, 2025) (distinguishing *Keo*'s reliance on *Mosbacher*).

3. <u>There is no statutory or regulatory basis to require notice and a hearing before immigration authorities can make arrests.</u>

The petitioner's demand for notice and a "pre-deprivation" hearing prior to being

arrested is without basis in law. No statute or regulation provides the petitioner with such a right. The petitioner's reliance on *Morrisey v. Brewer*, 408 U.S. 471 (1972) and its progeny is misplaced. *Morrissey* says nothing about due process afforded in immigration cases. Moreover, in *Morrissey*, the Supreme Court reaffirmed that "due process is flexible and calls for such procedural protections as the particular situation demands." *Id.* at 481. The mere fact that any process afforded to aliens differs from that offered to citizens does not inherently make it insufficient. *See Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976) ("The fact that an Act of Congress treats aliens differently from citizens does not in itself imply that such disparate treatment is invidious.").

The petitioner is essentially asking the Court to invent a new procedure rule. There is no precedent for notice and a hearing before immigration authorities can arrest someone that is unlawfully present in the United States. Indeed, the petitioner's new procedural rule would afford non-citizen aliens greater procedural protections than criminal defendants. A criminal defendant that is released on pre-trial supervision does not get notice and hearing before they are arrested on a pretrial violation. *See* 18 U.S.C. § 3148. Instead, such a person gets a hearing after they have been arrested. Similarly, a criminal defendant that is subject to supervised release does not get notice and hearing before they are arrested on a supervised release violation petition. *See* Fed. Rule Crim. Pro. 32.1. Instead, such a person gets a hearing after they have been arrested. To the extent that the petitioner's initial release on bond is even relevant in this case where the proceedings were terminated and the petitioner committed a new criminal offense, the petitioner cannot demand greater procedural protections than criminal defendants. The Court should deny the petitioner's request to create a new procedural rule because it is not supported by the law. *See Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (listing examples where pre-deprivation hearing is required and not required).

The procedural process afforded the petitioner is constitutionally adequate. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the [Fifth Amendment]

Due Process Clause." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "The fundamental requirement of [procedural] due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Id.* at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). Here, after the petitioner was arrested, he has been afforded multiple opportunities to appear before an immigration judge. During these hearings, the petitioner has had ample opportunity to address his detention. That is sufficient. Thus, the petitioner cannot show a likelihood of success on the merits or even a serious question as to the merits.

4. <u>The petitioner fails to establish irreparable harm.</u>

The petitioner has not articulated irreparable harm that can only be remedied with immediate relief in the form of a TRO. The fact that the petitioner has re-entered immigration detention is not extraordinary – rather, it is a statutorily-authorized part of the process. Immigration laws have long authorized immigration officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to detain aliens for removal proceedings. *See Demore v. Kim*, 538 U.S. 510, 523–26 (2003) and *Abel v. United States*, 362 U.S. 217, 232–37 (1960) (generally discussing longstanding administrative arrest procedures in deportation cases). In the INA, Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225-1226, 1231. "Detention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore*, 538 U.S. at 523 n.7).

Moreover, the petitioner has failed to demonstrate what changed circumstance warrants the extraordinary remedy he seeks in this case. The petitioner has been in immigration custody for nearly seven months. To the extent that the fact of detention established irreparable harm, the petitioner has effectively waived that by failing to challenge his detention for seven months. At the very least, the petitioner must show what new or changed circumstance warrants emergency relief now. He has failed to offer any reason.

Indeed, it appears that the petitioner made a tactical decision to collaterally attack one of his misdemeanor crimes of domestic violence first. When that tactical decision did not work out as hoped, the petitioner filed the instant petition. The petitioner cannot manufacture exigency based on his own tactical choices. He has failed to establish irreparable harm sufficient to warrant the requested TRO relief.

5. <u>The balance of the equities and public interest.</u>

The balance of the equities and public interest do not tip toward the petitioner simply because he has alleged a due process violation. Even where constitutional rights are implicated, where a petitioner has not shown a likelihood of success on the merits of a claim, a court should not grant a preliminary injunction. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). "The government has a strong interest in enforcing immigration laws." *Abdul-Samed v. Warden*, No. 1:25-cv-00098-SAB, 2025 WL 2099343, at *8 (E.D. Cal. July 25, 2025). This holds true in the case of the petitioner, who was arrested on account of his history of domestic violence convictions. Accordingly, the balance of equities and the public interest favor denying the petitioner's TRO.

D. CONCLUSION

For the above-stated reasons, the Court should deny the motion for a temporary restraining order.

Dated: August 15, 2025

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By: /s/ JUSTIN L. LEE
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