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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

Nadar Nadri, Alien # [redacted],

Petitioner,

v.

PAMELA BONDI, in her official capacity as Attorney General, et al.

Respondents.

No. 2:25-cv-07893

RESPONDENTS' OPPOSITION TO PETITIONER'S *EX PARTE* MOTION FOR TEMPORARY RESTRAINING ORDER [DKT. 3]

RESPONDENTS' OPPOSITION TO *EX PARTE* TRO APPLICATION

I. INTRODUCTION

The Court should deny Petitioner's *ex parte* Motion for a Temporary Restraining Order (the "TRO Application") [Dkt. 3].

First, Petitioner requests that the Court issue a TRO barring Respondents from transferred him into another district. But no authority supports barring the Attorney General from transferring detainees to other districts in the United States, nor does Petitioner establish that he would likely suffer any genuinely irreparable harm if he were so transferred. To the contrary, authority is clear that the Attorney General has discretion to make such transfers of detainees to other districts, which are not a 'harm' that is wrongfully inflicted on such detainees.

Second, Petitioner is an Iranian national who contends he cannot be removed to Iran. He speculated that he therefore might instead be removed to a third country without sufficient notice and an opportunity to be heard. He therefore asks the Court to now impose a multi-part notice and objection procedure, by TRO, in advance of such a removal. *See* TRO Application, Proposed Order. This request for a TRO should be denied as speculative and an improper attempt to enjoin the government to follow the law. Furthermore, Petitioner's requested multi-part notice procedure is too convoluted and obstructive. In such a future scenario, the requested procedure would constitute *de facto* improper interference with the prospective enforcement of a final removal order. Petitioner's proposed TRO seeks to impose a second stage requiring the Respondents to give him notice and time sufficient to enable him to try to re-open his old immigration proceedings. That is an improper effort to preemptively block removal in District Court.

Accordingly, this Court should deny the instant TRO Application because no extraordinary emergency relief is warranted.

II. STANDARD OF REVIEW

The standard for issuing a TRO and a preliminary injunction are substantially identical. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7

(9th Cir. 2001). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Where the government is a party, the balance of equities and the public interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

"A preliminary injunction can take two forms." *Marlyn Nutraceuticals v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory injunction prohibits a party from taking action and 'preserve[s] the status quo pending a determination of the action on the merits.'" *Id.* (quoting *Chalk v. U.S. Dist. Court*, 840 F.2d 701, 704 (9th Cir. 1988)). In contrast, a "mandatory injunction 'orders a responsible party to take action.'" *Id.* at 879 (quoting *Meghrig v. KFC W., Inc.*, 516 U.S. 479, 484 (1996)). "A mandatory injunction 'goes well beyond simply maintaining the status quo *pendente lite* [and] is particularly disfavored.'" *Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1320 (9th Cir. 1994) (quoting *Anderson v. United States*, 612 F.2d 1112, 1114 (9th Cir. 1980)).

III. ARGUMENT

A. Petitioner's Request for a TRO Barring His Transfer From this District Should Be Denied

Petitioner first seeks a TRO barring the Respondents from transferring him to another district within the United States (a prohibitory TRO), or in the alternative requiring the Respondents to affirmatively transfer him back from such other district (a mandatory TRO). *See* TRO Application, Proposed Order. Petitioner fails to carry his demanding burden to establish entitlement to such relief, which would improperly constrain the Attorney General's discretion to decide where to place detained immigrants, and which does not involve any likely irreparable harm. Indeed, Petitioner's

TRO Application is largely devoid of discussion on this issue, much less authority.

1. The law and facts do not clearly favor Petitioner because the relief sought by TRO is not part of his habeas claim

Petitioner argues that he is likely to succeed on the merits because he is an Iranian national, and he contends his continued detention is unconstitutionally prolonged since he allegedly cannot be removed within a reasonable time. However, the TRO relief he seeks—to be detained solely in the Central District of California—is not part of that habeas claim. There is no claim for "unlawful district of detention." Nor does Petitioner cite any authority establishing that INA detainees cannot be transferred to other districts. Furthermore, there is no prohibition on transferring alien detainees subject to removal; rather the INA bars this Court from entering injunctive relief with respect to transfers.

The government may detain aliens pending removal proceedings under 8 U.S.C. § 1226(a) and removable aliens under § 1231(a). And the government must detain aliens who are inadmissible or removable under certain provisions. *See id.* §§ 1226(c)(1), 1231(a)(2)(A). Under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in deciding where to detain aliens. The INA precludes review of "any . . . decision or action of the Attorney General . . . the authority for which is specified under this subchapter to be in the discretion of the Attorney General . . . ." 8 U.S.C. § 1252(a)(2)(B)(ii). Therefore, § 1252(a)(2)(B)(ii) bars relief that would impact where and when to detain Petitioners. *See Van Dinh v. Reno*, 197 F.3d 427, 433–34 (10th Cir. 1999) (citing *Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir. 1985)) (finding that judicial review of decision to transfer a detainee is inappropriate due to lack of jurisdiction).

Furthermore, § 1252(g) also bars enjoining transfers under Title 8. It prohibits district courts from hearing challenges to decisions and actions about whether, when, and where to commence removal proceedings. Reading the discretionary language in §§ 1231(g)(1) and 1252(g) together confirms that Congress foreclosed piecemeal litigation over where a detainee may be placed into removal proceedings. *See Liu v. INS*, 293 F.3d 36, 41 (2d Cir. 2002) (habeas petition "must not be construed to be 'seeking review of

any discretionary decision'" (*quoting Chmakov v. Blackman*, 266 F.3d 210, 215 (3d Cir. 2001))), superseded by statute on other grounds as recognized by *Ruiz-Martinez v. Mukasey*, 516 F.3d 102, 113 (2d Cir. 2008); *see also Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002); *Tercero v. Holder*, 510 F. App'x 761, 766 (10th Cir. 2013) (Attorney General's discretionary decision to detain aliens is not reviewable by way of habeas.).

Accordingly, Congress has barred judicial intervention with respect to the government's decision about where to detain Petitioner. Hence, the government cannot be barred from transferring Petitioner, or worse, ordered to return Petitioner back to this district after he has already been transferred.

2. Petitioner also fails to show that he will likely suffer serious irreparable harm if he is transferred

Petitioner also has not demonstrated that he will suffer irreparable injury if he is transferred to another district while detained. To show irreparable harm, he must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League,* 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Moreover, mandatory injunctions are not granted unless extreme or very serious damage will result. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 879 (internal citation omitted). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] 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." *Winter*, 555 U.S. at 22.

As a threshold matter, the Petitioner fails to demonstrate irreparable harm since this Court continues to have jurisdiction to adjudicate his habeas petition. A writ of habeas corpus operates not upon the prisoner, but upon the prisoner's custodian. *See Braden v. 30th Jud. Circuit Ct. of Kentucky*, 410 U.S. 484, 494–495 (1973). Jurisdiction

over a § 2241 petition attaches when a petitioner files a petition in his district of confinement and names his custodian. *See Mujahid v. Daniels*, 413 F.3d 991, 994 (9th Cir. 2005) ("jurisdiction attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change."). *See, e.g., Acosta v. Doerer*, No. 5:24-cv-01630-SPG-SSC, 2024 WL 4800878, at *4 (C.D. Cal. Oct. 24, 2024) (holding that the district court maintained jurisdiction even after immigration detainee petitioner was transferred from one federal facility to another); *Rincon-Corrales v. Noem*, No. 2:25-cv-00801-APG-DJA, 2025 WL 1342851, at *2 (D. Nev. May 8, 2025) ("[O]nce a petitioner has properly filed a habeas petition in the district of confinement, any subsequent transfer does not strip the filing district of habeas jurisdiction.").

Petitioner argues that being subjected to unlawful detention itself constitutes irreparable injury. But this argument "begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury." *Cortez v. Nielsen*, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019). Moreover, Petitioner's "loss of liberty" is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged irreparable harm as any habeas corpus petitioner in immigration custody. That type of harm has nothing to do with the specific district he may be detained in.

Petitioner fails to identify any specific irreparable harm that would arise from his potentially being detained in another district versus within this district. He makes vague reference to having access to his counsel located in Los Angeles. However, Petitioner fails to demonstrate that he will not be able to access such counsel if he is transferred to detention in another district. Indeed, telephone calls and mail are the primary means by which detainees access their counsel while in detention facilities, and those means do not depend upon the specific district of detention.

Accordingly, Petitioner's request for a TRO barring his transfer, or requiring him

to be transferred back, should be denied.

B. Petitioner's Request for a Prospective TRO Prohibiting Any Potential Transfer to a Third Country Should Be Denied

Petitioner's request for the Court to issue a TRO prohibiting his transfer to a third country without an elaborate notice and objection procedure similarly fails. At its outset, this request is speculative, insofar as Petitioner assumes he would be removed to an undesignated third country without any notice and opportunity to be heard.

It is improper to prospectively enjoin the government to follow the law. *See Elend v. Basham*, 471 F.3d 1199, 1209 (11th Cir. 2006) (court cannot fashion an injunction that abstractly commands the Secret Service to obey the First Amendment, noting that injunction requiring party to do nothing more specific than 'obey the law' is impermissible."); *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 841 (7th Cir. 2013) ("An obey-the-law injunction departs from the traditional equitable principle that injunctions should prohibit no more than the violation established in the litigation or similar conduct reasonably related to the violation."); *see, e.g. Lowery v. Circuit City Stores, Inc.*, 158 F.3d 742, 767 (4th Cir. 1998) (an "obey the law" injunction "impermissibly subjects a defendant to contempt proceedings for conduct unlike and unrelated to the violation with which it was originally charged"); *Burton v. City of Belle Glade*, 178 F.3d 1175, 1201 (11th Cir. 1999) ("As this injunction would do no more than instruct the City to 'obey the law,' we believe that it would not satisfy the specificity requirements of [Federal Rule of Civil Procedure] 65(d) and that it would be incapable of enforcement.").

Petitioner asks this Court to order government not to remove him to a country where "his life or freedom would be threatened because of five protected grounds," 8 U.S.C. § 1231(b)(3)(A), or where he would face a threat of torture, 8 C.F.R. §§ 208.16-208.18. Petitioner argues that if Respondents are detaining him with the intent to remove him to a third country without notice or opportunity to be heard. Petitioner's argument further assumes that the government will act in an unlawful manner in the future and so the Petitioner will suffer a constitutional injury at some point in the future. This is too

hypothetical to warrant the extraordinary relief of a preliminary injunction.

Furthermore, the Petitioner's Proposed Order seeks to impose a multi-stage notice and objection procedure whereby the Petitioner would first be given 10 days to raise a fear-based claim relative to written notice of prospective removal to a third country, and then the Respondents "must move to reopen Petitioner's removal proceedings." *See* TRO Application, Proposed Order. If the Respondents do not find such reasonable fear, Petitioner suggests they must then be ordered via TRO to give Petitioner "a meaningful opportunity" for Petitioner "to seek reopening of his immigration proceedings." *Id.* A TRO in District Court providing for such a last-ditch potential reopening of immigration proceedings in Immigration Court is not a proper way to block the prospective future imminent enforcement of a removal order. If Petitioner had legitimate grounds for seeking relief from his final removal order, he should have reopened his immigration proceedings many years ago in the Immigration Court. The Attorney General's execution of a final removal order cannot be blocked, at the very end of the process, so that Petitioner may *then* take time to try to reopen his immigration proceedings. *See* 8 U.S.C. 1252(g). And in any event, obligating a potential removal to be delayed for the purpose of such hypothetical proceedings is highly speculative, and is not the proper subject of an *ex parte* TRO Application.

C. The Balance of Interests Favors the Government

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g.*, *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.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"). This public interest outweighs Petitioner's private interest here.

IV. CONCLUSION

For the above reasons, the Respondents respectfully request that Petitioner's *ex parte* TRO Application be denied.

Dated: August 26, 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 contains 2,445 words, which complies with the word limit of L.R. 11-6.1.

Dated: August 26, 2025

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