

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

OSCAR MEDINA-HERRERA,)
)
Petitioner,)
)
v.) Case No. CIV-25-1203-J
)
KRISTI NOEM, et al.,)
)
Respondents.)
)

REPORT AND RECOMMENDATION

Petitioner Oscar Medina-Herrera seeks a writ of habeas corpus under 28 U.S.C. § 2241. Doc. 4.¹ United States District Judge Bernard M. Jones referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C). Doc. 3. Petitioner filed an emergency motion for a temporary restraining order, Doc. 6. For the reasons set forth below, the undersigned recommends the Court deny Petitioner's motion.

I. Temporary Restraining Order requirements.

Under Federal Rule of Civil Procedure 65(b)(1), a court may only grant a motion for a temporary restraining order without notice, if the moving party

¹ Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

has complied with certain requirements, including “certif[ying] in writing any efforts made to give notice [to the non-movant] and the reasons why it should not be required.” Fed. R. Civ. P. 65(b)(1)(B). Petitioner has not complied with those requirements here as he has not submitted to the Court any certification of efforts made to give notice to Respondents before filing the motion. The undersigned directed Respondents to respond to Petitioner’s habeas petition, Doc. 4, in which he seeks the same relief asked for in his emergency motion. *See* Doc. 11.

Therefore, the Court should deny the motion. *See, e.g., Bahadorani v. Bondi, et al.*, No. CIV-25-1091-PRW, Doc. 11 (W.D. Okla. Sept. 24, 2025) (denying temporary restraining order when the petitioner disregarded Fed. R. Civ. P. 65(b)(1)); *Honeycutt v. Mitchell*, No. CIV-08-140-W, 2008 WL 4694226, at *1 (W.D. Okla. Oct. 23, 2008) (recognizing that a temporary restraining order is “an extraordinary remedy, appropriate only when the procedural safeguards of Fed. R. Civ. P. 65(b) are scrupulously honored”).

II. Recommendation and notice of right to object.

For the reasons set forth above, the undersigned recommends the Court deny Petitioner’s emergency motion for a temporary restraining order. Doc. 6.

The undersigned advises the parties of their right to file an objection to this report and recommendation with the Clerk of this Court on or before November 7, 2025, in accordance with 28 U.S.C. § 636(b)(1) and Federal Rule

of Civil Procedure 72(b)(2).² The undersigned further advises the parties that failure to make a timely objection to this report and recommendation waives the right to appellate review of both factual and legal questions contained herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation does not terminate the referral to the undersigned Magistrate Judge in this matter.

ENTERED this 31st day of October, 2025.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE

² Given the expedited nature of these proceedings, the undersigned has reduced the typical objection time to Report and Recommendations to seven days. See Fed. R. Civ. P. 72(b)(2) advisory committee's note to 1983 addition (noting that rule establishing 14-day response time "does not extend to habeas corpus petitions, which are covered by the specific rules relating to proceedings under Sections 2254 and 2255 of Title 28."); see also *Whitmore v. Parker*, 484 F. App'x 227, 231, 231 n.2 (10th Cir. 2012) ("The Rules Governing § 2254 Cases may be applied discretionarily to habeas petitions under § 2241" and that "while the Federal Rules of Civil Procedure may be applied in habeas proceedings, they need not be in every instance – particularly where strict application would undermine the habeas review process.").