

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JOSE GOMEZ MARTINEZ,

Petitioner,

V.

DON JONES, et al.,

Respondents.

Case No. CIV-25-1235-PRW

REPORT AND RECOMMENDATION

Petitioner Jose Gomez Martinez, a non-citizen detainee in the custody of the U.S. Immigration & Customs Enforcement, filed a Petition for Writ of Habeas Corpus. Doc. 1. United States District Judge Patrick R. Wyrick referred this matter to the undersigned Magistrate Judge in accordance with 28 U.S.C. § 636(b)(1)(B)-(C). This Report and Recommendation addresses Petitioner's Motion for Temporary Restraining Order and Order to Show Cause for a Preliminary Injunction ("Motion"). Doc. 7.

To the extent Petitioner's Motion seeks a temporary restraining order under Federal Rule of Civil Procedure 65(b)(1), the Motion should be denied. A court may only grant a temporary restraining order if the moving party has complied with certain requirements, including certifying reasons why notice to the adverse party should not be required. Fed. R. Civ. P. 65(b)(1)(B). Petitioner has provided no reasons why notice should not be required and, thus, has failed to comply with Rule 65(b)(1). Accordingly, the undersigned recommends that the Court deny Petitioner's Motion to the extent it seeks a temporary restraining order under Federal Rule of Civil Procedure 65(b)(1). *See, e.g., Bahadorani v.*

Bondi, et al., No. CIV-25-1091-PRW, Doc. 11 (Order, September 24, 2025) (denying temporary restraining order when the petitioner failed to comply with Federal Rule of Civil Procedure 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” and adopting recommendation that temporary restraining order be denied when movant failed to justify a lack of notice).

Recommendation and Notice of Right to Object

For the foregoing reasons, the undersigned recommends that the Court **DENY** Petitioner’s Motion for Temporary Restraining Order and Order to Show Cause for a Preliminary Injunction, Doc. 7, to the extent it seeks a temporary restraining order under Federal Rule of Civil Procedure 65(b)(1). Petitioner is advised of his right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Any objection must be filed with the Clerk of Court not later than October 27, 2025. *See id.* § 636(b)(1); Fed. R. Civ. P. 72(b)(2). Failure to object timely waives the right to appellate review of the factual and legal issues addressed in this Report and Recommendation. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation does not dispose of all issues referred to the undersigned Magistrate Judge in this matter.

ENTERED this 22nd day of October, 2025.


CHRIS M. STEPHENS
UNITED STATES MAGISTRATE JUDGE