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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

MAXIMIANO DURAN SERRATO,

Petitioner,

v.

STEVE ANDERSON, Sheriff, Jefferson County; KENNETH PORTER, Acting Director of the Boise U.S. Immigration and Customs Enforcement Field Sub-Office; JASON KNIGHT, Director of the Salt Lake City U.S. Immigration and Customs Enforcement Field Office; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, U.S. Attorney General of the United States, in their official capacities,

Respondents.

Case No. 4:25-cv-000603-BLW

RESPONSE TO MOTION FOR TEMPORARY RESTRAINING ORDER (Dkt. No. 4)

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INTRODUCTION

The Court should deny Petitioner Maximiano Duran Serrato's Motion for a Temporary Restraining Order because this Court lacks jurisdiction over the Petition for Habeas Corpus and Petitioner is otherwise unlikely to succeed on the merits of his claims. Moreover, even if Petitioner was to succeed on his claims, he would not be entitled to the relief he seeks—an order prohibiting Respondents from relocating the Petitioner outside of the Court's jurisdiction and an order prohibiting Respondents from taking actions to affect his removal from the United States. Because Petitioner is unlikely to succeed on the merits of his claims, the Court should deny Petitioner's Motion for a Temporary Restraining Order (Dkt. No. 4).

LEGAL STANDARD

In general, the showing required for a temporary restraining order ("TRO") is the same as that required for a preliminary injunction. *See Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a TRO, Petitioner must "establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see Nken v. Holder*, 556 U.S. 418, 426 (2009). When "a plaintiff has failed to show the likelihood of success on the merits, we need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (internal citation and quotation marks omitted).

The final two factors required for preliminary injunctive relief—balancing of the harm to the opposing party and the public interest—merge when the Government is the opposing party. *See Nken*, 556 U.S. at 435. Few interests, however, "can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also*

United States v. Brignoni-Ponce, 422 U.S. 873, 878-79 (1975); *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977).

The Ninth Circuit also has a "serious questions" test which dictates that "serious questions going to the merits and a hardship balance that tips sharply toward the plaintiff can support issuance of an injunction, assuming the other two elements of the *Winter* test are also met." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th Cir. 2011). Thus, under the serious questions test, a TRO can be granted if there is a likelihood of irreparable injury to Petitioner, serious questions going to the merits, the balance of hardships tips sharply in Petitioner's favor, and the injunction is in the public interest. *M.R. v. Dreyfus*, 697 F.3d 706, 725 (9th Cir. 2012).

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner Maximiano Duran Serrato entered the United States without inspection by U.S. Immigration Officers. (Declaration of Jarred D. Callahan (Callahan Decl.) ¶¶ 5-7; Petition, Dkt. No. 1 ¶ 21.) Petitioner was arrested on October 19, 2025, at an illegal horse racing and gambling event in Wilder, Idaho. (Dkt. No 1 ¶¶ 1, 22.) He was placed into removal proceedings under 8 U.S.C. § 1229a. (Dkt. No. 1 ¶ 22; Callahan Decl. ¶ 12.) Petitioner is detained at the Jefferson County Jail in Rigby, Idaho, pursuant to 8 U.S.C. § 1225(b)(2). (Callahan Decl. ¶¶ 11, 18.)

On October 21, 2025, Petitioner filed a Petition for Writ of Habeas Corpus. (Dkt. No. 1.) Petitioner then filed a Motion for a Temporary Restraining Order. (Dkt. No. 4.) On October 28, 2025, this Court granted the Motion for a Temporary Restraining Order, by ordering that Respondents may not remove the Petitioner from the United States, or the District of Idaho, and ordering that "Respondents may not engage in activities or communications with the Petitioner in an effort to secure the abandonment of his rights." (Dkt. No 5.) The Court ordered

Respondents to respond to the Petition and request for injunctive relief by November 3, 2025. (*Id.*)

ARGUMENT

I. Petitioner cannot establish a likelihood of success on the merits.

Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740. Petitioner cannot show a likelihood of success or serious questions going to the merits of his claim for alleged statutory violations arising from his mandatory detention under 8 U.S.C. § 1225 because (A) the Court lacks jurisdiction to decide Petitioner's claim; (B) Section 1225 governs Petitioner's detention; and (C) Petitioner has failed to exhaust his administrative remedies. (*See* Resp. to Pet. for Habeas Corpus, Dkt. No. 7.)

II. Petitioner is not entitled to the relief he seeks.

Petitioner asks this Court to enter an order "preventing Respondents from relocating the Petitioner out of the Court's jurisdiction [and] from taking actions to effect his removal from the United States. (Dkt. No. 4-1 at 15.)[1] Petitioner has identified no authority under which the Court may prevent Respondents from relocating the Petitioner. Indeed, the Secretary of the Department of Homeland Security has "broad discretion . . . to choose the pace of detention for deportable" noncitizens. *Geo Grp., Inc. v. Newsom*, 50 F.4th 745, 751 (9th Cir. 2022) (citing 8 U.S.C. § 1231(g)). Having granted the Secretary such broad discretion, Congress then prohibited courts from reviewing those discretionary decisions:

> Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, . . . no court shall have jurisdiction to review—

[1] Respondents do not oppose the Court's order prohibiting Respondents from engaging in "activities or communications with the Petitioner in an effort to secure the abandonment of his rights in this action or regarding his rights in removal proceedings, without the presence of his attorneys" or Petitioner's request for the same (Dkt. Nos. 5, 4-1).

> . . . (ii) any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security, other than the granting of relief under section 1158(a) of this title.

8 U.S.C. § 1252(a)(2)(B)(ii). Combined, Sections 1231(g)(1) and 1252(a)(2)(B)(ii) unambiguously strip courts of jurisdiction to adjudicate the Government's determination of where a noncitizen should be housed pending removal proceedings. And because the Court has no jurisdiction to review the Government's decision of where a noncitizen should be housed, it lacks jurisdiction to prohibit Respondents from relocating Petitioner outside of this District.

Moreover, such a restriction prevents Respondents from providing Petitioner with the bond hearing that he seeks because there are no immigration judges with jurisdiction to conduct a bond hearing in Idaho. (*See* Callahan Decl. ¶¶ 14-16.) The Court should immediately lift its order prohibiting Respondents from relocating the Petitioner outside of the District of Idaho.

Nor does this Court have jurisdiction to enter an order prohibiting Respondents from "taking actions to effect [Petitioner's] removal from the United States." Respondents *have* taken action to affect Petitioner's removal from the United States by serving him with a Notice to Appear. (*See* Callahan Decl. ¶ 12.) And Respondents will continue to process Petitioner's removal. Under 8 U.S.C. § 1252(g), "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to *commence proceedings, adjudicate cases*, or execute removal orders." 8 U.S.C. § 1252(g) (emphasis added). Accordingly, this Court lacks jurisdiction to enter an order prohibiting Respondents from "taking actions to effect [Petitioner's] removal."

III. Petitioner has not shown irreparable harm.

To prevail on his request for interim injunctive relief, Petitioner must demonstrate "immediate threatened injury." *Caribbean Marine Serv. 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. Detention alone is not an irreparable injury. *See Reyes v. Wolf*, No. 20-CV-0377, 2021 WL 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v. Mayorkas*, 854 Fed. App'x 190 (9th Cir. 2021) ("[C]ivil detention after the denial of a bond hearing [does not] constitute[] irreparable harm such that prudential exhaustion should be waived."). Further, "[i]ssuing 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 (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam)). Here, because Petitioner's alleged harm is "essentially inherent in detention," the Court cannot weigh this strongly in favor of Petitioner. *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 778 (N.D. Cal. 2019).

IV. The balance of equities does not tip in Petitioner's favor.

It is well settled that the public interest in enforcement of the United States' immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 551-58 (1976); *Blackie's House of Beef*, 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*, 556 U.S. at 435 ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permits and prolongs a continuing violation of United States law.") (internal citation and quotation marks omitted). ICE also has an "institutional interest" in protecting its "administrative agency authority." *See McCarthy v.*

Madigan, 503 U.S. 140, 145, 146 (1992) *superseded by statute as recognized in Porter v. Nussle*, 534 U.S. 516 (2002).

> Exhaustion is generally required as a matter of preventing premature interference with agency processes, so that the agency may function efficiently and so that it may have an opportunity to correct its own errors, to afford the parties and the courts the benefit of its experience and expertise, and to compile a record which is adequate for judicial review.

Global Rescue Jets, LLC v. Kaiser Found. Health Plan, Inc., 30 F.4th 905, 913 (9th Cir. 2022) (quoting *Weinberger v. Salfi*, 422 U.S. 749, 765 (1975)). Indeed, "agencies, not the courts, ought to have primary responsibility for the programs that Congress has charged them to administer." *McCarthy*, 503 U.S. at 145. Thus, Respondents' interest in enforcing the United States' immigration laws and protecting its administrative processes outweigh the harm inherent in detention.

CONCLUSION

For the reasons set forth above and in the Response to the Petition for Habeas Corpus, the Court should deny Petitioner's Motion for a Temporary Restraining Order and lift its order prohibiting Respondents from removing Petitioner from the District of Idaho.

Respectfully submitted this 3rd day of November, 2025.

BART M. DAVIS
UNITED STATES ATTORNEY
By:

/s/ Christine G. England
CHRISTINE G. ENGLAND
Assistant United States Attorney