

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

AHMAD SHAKOOR,

Petitioner,

v.

TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement, U.S.
Department of Homeland Security, in his official
capacity;
Daren K. MARGOLIN, the Director of Executive
Office for Immigration Review, in his official
capacity;
KRISTI NOEM, Secretary of U.S. Department of
Homeland Security, in her official capacity;
and
PAMELA BONDI, Attorney General of the
United States, in her official capacity,
WARDEN of South Texas ICE Processing Center
in Pearsall, Texas, in his or her official capacity,

Respondents.

Case No.: 5:25-cv-1628

**PETITIONER'S EMERGENCY
MOTION FOR PRELIMINARY
INJUNCTION OR TEMPORARY
RESTRAINING ORDER**

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PETITIONER'S EMERGENCY MOTION
FOR PRELIMINARY INJUNCTION
AND TEMPORARY RESTRAINING ORDER

Pursuant to Fed. R. Civ. P. 65, Petitioner Mr. Ahmad Shakoor, moves this Court for a Preliminary Injunction and Temporary Restraining Order enjoining respondents from violating his rights under Fifth Amendment, the APA, and immigration laws and ordering Respondents to maintain the *status quo* during the pendency of this habeas petition. In support of this motion, Mr. Shakoor submits the following arguments. A proposed Order is attached.

INTRODUCTION

Petitioner files this instant motion and respectfully moves this Court to protect his Constitutional rights during the pendency of his Petition for Habeas Corpus. The purpose of a preliminary injunction is to preserve the relative positions of the parties until a trial on the merits can be held. *University of Texas v. Camenisch*, 451 U.S. 390, 395 (1981). To obtain such equitable relief, the burden is upon the Petitioner to make a sufficient showing of (i) a substantial likelihood of success on the merits, (ii) substantial threat of irreparable injury, (iii) the threatened injury outweighs any harm the order might cause to the defendant, and (iv) the injunction will not disserve the public interest. *City of El Cenizo, Texas v. Texas*, 890 F.3d 164, 176 (5th Cir. 2018); *see also Winter v. National Resource Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

STATEMENT OF FACTS

Mr. Shakoor entered the United States in 2016, and he timely filed for asylum. *Exhibit A*. On March 16, 2023, an IJ at the non-detained Immigration Court in Santa Ana, California, entered a removal order against Mr. Shakoor and granted him withholding of removal as to Pakistan. *Id.* The Immigration Judge denied asylum because Mr. Shakoor obtained asylum status in Brazil in 2015 prior to entering the United States. *Id.*

In 2019, ICE detained Mr. Shakoor, released him on his own recognizance, and placed him on an order of supervision. *Exhibit B*. He attended his supervision appointments in-person as required, but his April 2020 in-person check-in was cancelled presumably due to COVID. In December 2024, ICE notified Mr. Shakoor that he would need to return to in-person check-ins in December 2025. *Ex. C.*

On or about October 2, 2025, CBP officers arbitrarily detained Mr. Shakoor at the internal checkpoint while he attempted to pass through as a truck driver. Despite Mr. Shakoor

notifying CBP that he has withholding of removal, CBP detained him anyways, stating that was not a status.

It does not appear that ICE followed the procedure to revoke Mr. Shakoor's OSUP. In fact, it does not appear that ICE was at all aware that Mr. Shakoor was on OSUP because ICE issued a new Notice to Appear to him. At an Immigration Court hearing on November 5, 2025, the Immigration Judge at Pearsall, Texas terminated Mr. Shakoor's removal proceedings because he had already been granted withholding of removal, and therefore, a new removal proceeding could not be initiated. Ex. D.

On information and belief, Mr. Shakoor has not received an individualized hearing before a neutral decisionmaker to assess whether his recent re-detention is warranted due to danger or flight risk.

Despite the Immigration Judge informing Respondents that Mr. Shakoor has withholding of removal, Respondents have not released Mr. Shakoor. He remains in ICE custody.

ARGUMENT

Petitioner is entitled to a preliminary injunction preventing his transfer and removal, as well as ordering his immediate release from custody. If Petitioner's motion is not granted, he is certain to suffer irreparable harm both to his constitutional rights and to his emotional health. He is also substantially likely to succeed on the merits of his Petition for Habeas Corpus: that the government violated his rights to due process by not following the proper procedure for cancelling his Order of Supervision.

I. Legal Standard for a Temporary Restraining Order and Preliminary Injunction

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

Canal Auth. of State of Fla. v. Callaway, 489 F.2d 567, 572 (5th Cir. 1974); *Winter v. Nat. Res.*

Def. Council, Inc., 555 U.S. 7, 20 (2008). Here, all four factors weigh in favor of granting injunctive relief.

II. Petitioner is entitled to a Temporary Restraining Order and Preliminary Injunction ordering his immediate release from custody

A. Petitioner is likely to prevail on the merits of his habeas petition.

1. Petitioner needs to only establish a *prima facie* case because he is requesting a prohibitory injunction

An injunction “is a judicial order that ‘tells someone what to do or not to do.’” *Garland v. Aleman Gonzalez*, 596 U.S. 543, 549 (2022) (quoting *Nken v. Holder*, 556 U.S. 418, 428 (2009)). Two general types of injunctions exist: prohibitory and mandatory. A prohibitory injunction that is either temporary or preliminary in nature generally serves to maintain the *status quo*. *Heckler v. Lopez*, 463 U.S. 1328, 1333 (1983) (prohibitory injunction “freezes the positions of the parties until the court can hear the case on the merits”). However, a mandatory injunction requires a party to take affirmative action. *Tom Doherty Assocs., Inc. v. Saban Ent., Inc.*, 60 F.3d 27, 34 (2d Cir. 1995); *Meghrig v. KFC W., Inc.*, 516 U.S. 479, 484 (1996).

Mandatory injunctions require a higher standard of proof than a prohibitory injunction. *TitleMax of Tex., Inc. v. City of Dallas*, 142 F.4th 322, 328-29 (5th Cir. 2025). For a prohibitory injunction, “[t]o show a likelihood of success, [the movant] must present a *prima facie* case, but need not provide that [it is] entitled to summary judgment.” *Title Max of Texas, Inc v City of Dallas*, 142 F4th 322, 329 (5th Cir 2025), quoting *Daniels Health Sciences, LLC v Vascular*

Health Sciences, LLC, 710 F3d 579, 582 (5th Cir 2013).

Here, Petitioner requests a *prohibitory* injunction because he seeks only to preserve the *status quo*, which is “the last peaceable uncontested status” existing between the parties before the dispute arose. *Canal Authority of Florida v. Callaway*, 489 F.2d 567, 576 (5th Cir. 1974); *see also United States v. FDIC*, 881 F.2d 207, 210 (5th Cir 1989) (The district court has the equitable power to return the parties to their last uncontested status.). The Fifth Circuit recognizes the last uncontested state of the parties’ relationship leading up to the suit as the status quo itself. *Lake Charles Diesel, Inc. v General Motor Corp.*, 328 F.3d 192, 193–96 (5th Cir. 2003). Petitioner’s “last peaceable uncontested status” was freedom from detention while adhering to an Order of Supervision. He moves for this *status quo* to be maintained, and therefore, he only needs to meet the lower burden of proof: a *prima facie* case on his habeas petition.

For Petitioner, he moves for this Court to maintain the *status quo* by ordering his immediate release from custody during the pendency of this habeas petition. Since this was the *status quo* prior to the last “peaceable uncontested status,” this is the correct remedy under Fifth Circuit law.

However, should this Court deem that a hearing should be required before releasing Petitioner, then he requests that Respondents be prevented from transferring him out of this District or removing him to any third country until he has a chance to be heard on this Motion. He has demonstrated a *prima facie* case by showing that his OSUP was cancelled without the required due process.

2. Petitioner’s rights to due process have been violated

The governing regulations require Respondents to notify Mr. Shakoof of the reason for his re-detention. 8 C.F.R. § 241.13(i)(3). Respondents have not complied with this obligation,

nor have they provided him with an initial interview at which he can respond to the purported reasons for revocation. *See id.* As such, Mr. Shakoor is entitled to immediate release on OSUP until ICE can provide the minimal process required by the regulation.

Detention violates 8 U.S.C. § 1231 and the Due Process Clause of the United States Constitution unless it is reasonably related to the government's purpose of preventing flight and protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). Before being re-detained, Mr. Shakoor lived in the United States for almost ten years, and he had been in compliance with the terms of his release on own recognizance and his OSUP since 2019. And he has received no process to determine whether his detention is warranted.

Mr. Shakoor is entitled to an individualized determination by impartial adjudicators as to whether detention is justified based on danger or flight. *See also Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

3. Petitioner has been arbitrarily detained by the cancellation of his Order of Supervision

Post-removal order detention violates 8 U.S.C. § 1231(a)(6) where removal is not significantly likely to occur in the reasonably foreseeable future. *See also Zadvydas v. Davis*, 533 U.S. 678 (2001). Detention where removal is not reasonably foreseeable also violates due process. The ninety-day removal period ended June 14, 2023, or 90 days after the Immigration Judge granted his withholding of removal from Pakistan. ICE determined that it could not effectuate his removal and had him on an OSUP. Given that the United States did not then find—and in the intervening two years has not since found—a third country for removal, Mr. Shakoor has made an initial showing under *Zadvydas* that his removal is not significantly likely. *Zadvydas*, 533 U.S. at 701. Respondents cannot rebut this showing, as they do not have any individualized evidence to believe that Mr. Shakoor's removal is reasonably foreseeable.

Mr. Shakoor's detention under these circumstances violates 8 U.S.C. § 1231 and the Due Process Clause under the United States Constitution. Mr. Shakoor is entitled to immediate release on an OSUP.

4. Petitioner continues to be prejudiced by the government violating his due process rights

To prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). "To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided." *Tamayo-Tamayo v. Holder*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted).

Mr. Shakoor is clearly prejudiced by his continued, unjustified detention.

B. Petitioner will continue to face irreparable harm if emergency relief is not granted.

It is well established that deprivation of constitutional rights constitutes "irreparable injury" and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373–74 (1976); *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."). "[A]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual" (cleaned up) (internal quotation marks omitted) (citation omitted)). *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018). Courts have also recognized that wrongful removal, family separation, deprivation of

Constitutional rights through detention, and expulsion to places where the Petitioner will be persecuted or tortured may be irreparable harm in the immigration context. *See, e.g., A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (removal without opportunity, at some time, to be heard); *Nat'l TPS All. v. Noem*, 150 F.4th 1000, 1025-26 (9th Cir. 2025) (wrongful removal and family separation); *Doe #1 v. Trump*, 957 F.3d 1050, 1061 (9th Cir. 2020) (prolonged separation from family members); *Rodriguez v. Robbins*, 715 F.3d 1127, 1144-45 (9th Cir. 2013) (deprivation of constitutional rights through detention); *Huishu-Huishu v. Mayorkas*, 27 F.4th 718, 733 (D.C. Cir. 2022) (expulsion to places where migrants will be persecuted or tortured).

In the present case, Mr. Shakoor faces irreparable harm through family separation, detention, wrongful removal, and potential expulsion to a place where he will be persecuted or tortured. Removal without due process regarding the cancellation of his OSUP constitutes irreparable harm. Arbitrary detention constitutes irreparable harm. And lastly, the potential expulsion to a third country where he could be tortured or persecuted constitutes irreparable harm.

The issues establish irreparable harm and justify the prompt issuance of a Preliminary Injunction or Temporary Restraining Order in this matter.

C. Respondents will face no injury or harm if emergency relief is granted.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221 (10th Cir. 2005).

Mr. Shakoor's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Mr. Shakoor due process as required under the Constitution and the INA. In fact, Mr. Shakoor's continued detention is a *burden* for Respondents in that his

arbitrary detention is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal. Mr. Shakoor is only seeking a return to the *status quo*, which is immediate release and continued OSUP during the pendency of these habeas proceedings. This is the *status quo*, which had been amenable to the Respondents for the last 12 years, as they did not initiate any cancellation of his OSUP during this last decade of supervised release. Petitioner also moves for this Court to order the Respondents to refrain from removing him from the United States before he has the opportunity to seek relief from removal to any third country DHS may identify for his removal and from transferring him out of this District during the pendency of his habeas proceedings.

For these reasons, the irreparable harm to Mr. Shakoor that will occur should he not receive the requested relief outweighs any harm to the Respondents.

D. The issuance of a Preliminary Injunction or Temporary Restraining Order is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep’t of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

The protection of individuals’ constitutional rights against governmental interference is

one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government's power to skew, alter, or improperly affect legal proceedings related to an individual's property or liberty interest(s). To ensure the protection of Mr. Shakoor's constitutional rights, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain him.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

E. Petitioner has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Mr. Shakoor asks this Court to find that he has complied with the requirements of Rule 65 of the Federal Rules of Civil Procedure for the purpose of granting a temporary restraining order. Respondents have been provided a copy of the instant motion and supporting documents and are on notice. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Mr. Shakoor respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from transferring, removing, or continuing to detain Mr. Shakoor and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

CONCLUSION

For all the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Mr. Shakoor's Petition, and Motion violated the Fifth Amendment, of the United States Constitution, 28 U.S.C. § 2241, the APA, and the INA;
2. Enjoin Respondents from transferring Mr. Shakoor outside of the Western District of Texas during the pendency of this habeas corpus petition;
3. Enjoin Respondents from removing Mr. Shakoor to any third country during the pendency of this habeas proceeding;
4. If Mr. Shakoor has already been transferred, then order his immediate return to this District;
5. Maintain the *status quo* during the pendency of this habeas corpus petition by ordering Mr. Shakoor's immediate release from detention; and
6. Grant Petitioner such other relief as the Court deems appropriate and just.

Respectfully submitted on this 3rd day of December 2025,

/s/ Jennifer Scarborough
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Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned

counsel has discussed with Petitioner the events described in this Motion for Preliminary Injunction and Temporary Restraining Order and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

Date: 03 December 2025

/s/ Jennifer Scarborough
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that I caused a copy of the foregoing

PETITIONER'S EMERGENCY MOTION
FOR PRELIMINARY INJUNCTION
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to be served on all counsel of record via ECF.

Dated this 3rd day of December 2025,

/s/ Jennifer Scarborough
Jennifer Scarborough