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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 Sagastegui-Roncero Luiguie Martin,

15
16 Petitioner,

17 v.

18 Fereti Semaia, et al.,

19 Respondents.
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No. 5:25-cv-03324-SVW-BFM

**FEDERAL RESPONDENTS'
OPPOSITION TO PETITIONER'S *EX*
PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER**

**[Declaration of Cortney D. Lenardson
and Exhibit A submitted concurrently]**

Honorable Stephen V. Wilson
United States District Judge

1 **I. INTRODUCTION AND SUMMARY**

2 Petitioner Sagastegui-Ronceros Luiguie Martin, an immigrant detained at the
3 Adelanto facility since October 22, 2025, has filed a motion for a temporary restraining
4 order [Dkt. No. 3] (the “TRO Application”) asking the Court to release him from custody.
5 The Application should be denied for the following reasons.

6 **First**, Petitioner argues that the government previously released him, and that his
7 re-detention violates his procedural and substantive due process rights under the Fifth
8 Amendment. However, Petitioner fails to make any evidentiary showing of a putative re-
9 detention violation that would justify immediate habeas release.

10 **Second**, the Petitioner does not yet have a judicially final removal order. While
11 the Petitioner had his merits hearing on On December 11, 2025, and the Immigration
12 Judge ordered him removed to Honduras under the Asylum Cooperative Agreement with
13 Honduras (ACA). *See* Cortney D. Lenardson Decl. (“Lenardson Decl.”) ¶ 18. This is not
14 a final removal order because the Petitioner reserved appeal and is well within his time
15 to appeal to the Board of Immigration Appeals, which is 30 days from the date of order.

16 Accordingly, the government’s position is that Petitioner continues to fall within
17 the statutory definition of aliens in § 1225(b)(2), i.e., aliens present in the United States
18 who have not been admitted. As the BIA determined in *Matter of Jonathan Javier Yajure*
19 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), Immigration Judges lack authority to hear bond
20 requests or to grant bond to such aliens who are present in the United States without
21 admission.

22 Here, Petitioner requests immediate release, or in the alternative, immediate
23 release and an order enjoining Respondents from re-detaining him unless they
24 demonstrate at a pre-deprivation bond hearing that he is a flight risk or danger to the
25 community. *See* [Dkt. 3 at 14]. This Court, however, has issued an order finding that
26 such detentions are governed by § 1225(b)(2), and such bond hearings are not available.
27 *See Altamirano Ramos v. Lyons et al.*, 2:25-cv-09785-SVW-AJR (C.D. Cal. Nov. 12,
28 2025) (denying application for bond hearing by TRO) [Dkt. no. 8]. In the *Bautista* case,

1 Case no. 5:25-cv-01873-SSS-BFM, Judge Sykes took the opposite view, granting,
2 summary judgment on November 20, 2025 [Dkt. 81], and subsequently granting class
3 certification on November 25, 2025 [Dkt. 82]. *See* 2025 WL 3289861 (MSJ decision);
4 2025 WL 3288403 (class cert decision). However no final declaratory judgment has been
5 issued in that case.

6
7 **Third**, Petitioner complains that he was “abruptly deprived of his freedom without
8 holding a bond hearing or showing any changed circumstances.” Petition ¶ 5. Petitioner
9 contends that when he reported to his ICE check-in on October 22, 2025, he was
10 unlawfully detained inside of the ATD office. *Id.* Petitioner contends that he was
11 “requested to enroll in the ATD program and to use an ankle monitor” for reasons
12 unknown to him. *Id.*

13 On or about May 18, 2022, Petitioner entered the United States without inspection
14 at or near Eagle Pass, Texas. *See* Lenardson Decl. ¶4. On this same date, CBP apprehended
15 him after entry, placing him into expedited removal proceedings under 8 U.S.C. §
16 1225(b)(1). *Id.* ¶5. On June 3, 2022, due to the inability of the Government to provide him
17 with a Credible Fear interview in a timely manner, the Petitioner was granted parole, and
18 as a condition, he was enrolled in the Compliance Reporting Terminal (CART) program.
19 *Id.* ¶8; *See* Exhibit A (Order on Release on Recognizance). In the CART program,
20 Petitioner is required to periodically report to ERO. *Id.*

21 On or about October 22, 2023, Petitioner was arrested for Kidnapping, in violation
22 of California Penal Code Section (CPC) 207(a), False Imprisonment, in violation of CPC
23 § 236, and Domestic Battery, in violation of CPC 243(e)(1). *Id.* ¶10.

24 On August 19, 2024, Petitioner was placed into removal proceedings via a Notice
25 to Appear (NTA) placing him in removal proceedings under 8 U.S.C. § 1182(a)(6)(A)(i)
26 as an alien present in the United States without being admitted or paroled, or who arrived
27 in the United States at any time or place other than as designated by the Attorney General.
28 Lenardson Decl. ¶11. On

1 On October 22, 2025, Petitioner reported to ERO to be fitted with a GPS tracking
2 ankle bracelet. *Id.* ¶15. Failure to comply with this condition would result in
3 redetermination of release of conditions or arrest and detention. *Id.* ¶14. On this date
4 however, Petitioner refused to wear the GPS tracking ankle bracelet, so he was terminated
5 from the ATD program and taken into custody. *Id.* ¶15.

6 As such, Respondents contend that Petitioner’s refusal to have a GPS monitor
7 placed on him is a changed circumstance justifying the Petitioner’s change of custody
8 status.

9 Accordingly, the TRO Application should be denied.

10 **II. STANDARD OF REVIEW**

11 Courts have recognized very few circumstances justifying the issuance of an *ex*
12 *parte* temporary restraining order. *See Reno Air Racing Ass’n, Inc. v. McCord*, 452 F.3d
13 1126, 1131 (9th Cir. 2006). A TRO is “an extraordinary and drastic remedy ... that should
14 not be granted unless the movant, *by a clear showing*, carries the burden of persuasion.”
15 *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant
16 must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering
17 irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its
18 favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*,
19 555 U.S. 7, 20 (2008).

20 **III. ARGUMENT**

21 **A. Petitioner Has Not Shown That the Government Lacked Authority to** 22 **Detain Him, That the Government Revoked Him Release Improperly,** 23 **Or That the Remedy Would Be His Immediate Release**

24 Showing a likelihood of success on the merits is a requisite threshold issue. Indeed,
25 “when a plaintiff has failed to show the likelihood of success on the merits, [the court]
26 need not consider the remaining three *Winters* elements.” *Garcia v. Google, Inc.*, 786 F.3d
27 733, 740 (9th Cir. 2015) (cleaned up). To succeed on a habeas petition, Petitioner must
28 show that she is “in custody in violation of the Constitution or laws or treaties of the United

1 States.” 28 U.S.C. § 2241. Although Petitioner is being detained in this district, he has not
2 shown, and indeed cannot show, that his current custody is unlawful.

3 Petitioner argues he should not be detained, because ICE previously released him
4 on his own recognizance, under the CART program. Lenardson Decl. ¶8. However, the
5 government’s authority to re-detain individuals that ICE previously released on parole
6 does not require an intensive evidentiary procedure.

7 The INA governs the detention and release of noncitizens during and following their
8 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The INA
9 does not provide for a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231.

10 Petitioner argues that there does not appear to be a good reason for his detention in
11 October of 2025, given that he was previously paroled. But the government’s authority to
12 re-detain individuals previously released on parole by ICE is discretionary, and it does not
13 require the type of intensive threshold evidentiary procedure that Petitioner suggests. By
14 law, such parole can be terminated by, *inter alia*, serving the noncitizen with a charging
15 document, including a notice to appear.

16 In cases not covered by paragraph (e)(1) of this section, upon accomplishment
17 of the purpose for which parole was authorized or when in the opinion of one
18 of the officials listed in paragraph (a) of this section, neither humanitarian
19 reasons nor public benefit warrants the continued presence of the alien in the
20 United States, parole shall be terminated upon written notice to the alien and
21 he or she shall be restored to the status that he or she had at the time of parole.

22 When a charging document is served on the alien, the charging document will
23 constitute written notice of termination of parole, unless otherwise specified.

24 8 C.F.R. § 212.5(e)(2)(i).

25 Here, Petitioner was placed into removal proceedings via a notice to appear served
26 on him on August 19, 2024. *See Lenardson Decl.* ¶11. The government is authorized to
27 revoke the parole it had previously granted under 8 C.F.R. § 212(d)(5). *See Hassan v.*
28 *Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010). Petitioner does not submit evidence

1 demonstrating that his parole could not be revoked or was improperly revoked relative to
2 his removal proceedings.

3 **B. Even If a Parole Revocation Problem Were Established, Immediate**
4 **Habeas Relief Would not Be the Narrowly Tailored Remedy**

5 In habeas jurisdiction, as in other contexts, preliminary injunctive relief must be
6 *narrowly tailored* to the wrong asserted. *See e.g. Rodriguez Diaz v. Garland*, 53 F.4th
7 1189, 1214 (9th Cir. 2022). Here, if there were some defect in the revocation of
8 Petitioner’s parole status—which the TRO Application does not establish—then the
9 narrowly tailored remedy would not be immediate release, but rather (1) rectifying that
10 procedural deficiency; or (2) Petitioner simply seeking a bond hearing consistent with
11 her rights as a detainee—which are adequately protected, like other detainees, by the
12 existing bond hearing regime.

13 Other District Courts have correctly applied this point of remedy law. In *Ahmad v.*
14 *Whitaker*, for example, the government revoked the petitioner’s release but did not
15 provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D.
16 Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019).
17 The petitioner argued the revocation of her release was unlawful because, he contended,
18 the federal regulations prohibited re-detention without, among other things, an
19 opportunity to be heard. *Id.* In rejecting his claim, the court held that although the
20 regulations called for an informal interview, petitioner could not establish “any
21 actionable injury from this violation of the regulations” because the government had
22 procured a travel document for the petitioner, and his removable was reasonably
23 foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of
24 Massachusetts held that even if the ICE detainee petitioner had not received a timely
25 interview following her return to custody, there was “no apparent reason why a violation
26 of the regulation ... should result in release.” *Doe v. Smith*, 2018 WL 4696748, at *9 (D.
27 Mass. Oct. 1, 2018). The court elaborated, “[I]t is difficult to see an actionable injury
28 stemming from such a violation. Doe is not challenging the underlying justification for

1 the removal order.... Nor is this a situation where a prompt interview might have led to
2 her immediate release—for example, a case of mistaken identity.” *Id.*

3 Petitioner suggests there must be some sort of detailed evidentiary proceeding
4 before the government may detain him, and any allegedly lacking aspect of revocation
5 procedure or documentation means he should be immediately released. But that demand
6 is not consistent with the government’s broad authority to revoke discretionary parole.

7
8 **C. Petitioner Has Not Shown He Will Suffer Irreparable Harm Absent A**
9 **TRO.**

10 Petitioner has not demonstrated that he will suffer irreparable injury absent his
11 immediate release by TRO. To show irreparable harm, he must demonstrate “immediate
12 threatened injury.” *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th
13 Cir. 1988) (citing *L.A. Mem’l Coliseum Comm’n v. Nat’l Football League*, 634 F.2d 1197,
14 1201 (9th Cir. 1980)). “Issuing a preliminary injunction based only on a possibility of
15 irreparable harm is inconsistent with [the Supreme Court’s] characterization of injunctive
16 relief as an extraordinary remedy that may only be awarded upon a clear showing that the
17 plaintiff is entitled to such relief. *Winter*, 555 U.S. 7 at 22 (2008).

18 Petitioner contends that being subjected to a continuing unjustified detention itself
19 inherently constitutes irreparable injury. His asserted injury by detention is not itself
20 inherently irreparable; it is an injury inherent in lawful immigration detention.

21 **D. The Balance of Interests Favors the Government**

22 It is well settled that the public interest in enforcement of the United States’s
23 immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S.
24 543, 556–58 (1976); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C.
25 Cir. 1981) (“The Supreme Court has recognized that the public interest in enforcement
26 of the immigration laws is significant.”) (citing cases). This public interest outweighs
27 Petitioner’s private interest here.

1 **IV. CONCLUSION**

2 Petitioner's TRO Application should be denied.

3
4 Dated: December 16, 2025

Respectfully submitted,

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21 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

22 The undersigned, counsel of record for Respondents, certifies that the
23 memorandum of points and authorities contains 2,029 words, which complies with the
24 word limit of L.R. 11-6.1.

25 Dated: December 16, 2025

26 /s/ Erika S. Rojas
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