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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

SAMAN MAHMOUDPOUR,
Petitioner,

v.

KRISTI NOEM, et al.,

Respondents.

No. 5:25-cv-03340-FWS-AJR

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

[Declaration of Jonathan E. Sanchez filed herewith]

Honorable Fred W. Slaughter
United States District Judge

I. INTRODUCTION AND SUMMARY

Petitioner Saman Mahmoudpour, an immigrant detained at the Adelanto facility since October 15, 2025, has filed a motion for a temporary restraining order [Dkt. No. 3] (the "TRO Application") asking the Court to release him from custody. The Application should be denied for the following reasons.

First, the TRO Application fails to comply with the evidentiary and procedural requirements for a litigant seeking preliminary injunctive relief. Most obviously, Petitioner did not submit the supporting declaration required for such motions by Local Civil Rule 65-1. On this threshold basis alone, the TRO Application must be denied. Preliminary injunctive relief cannot be granted without the moving party establishing the requisite procedural and evidentiary basis. That was not done here.

Second, Petitioner argues that he should be granted release for the reasons set forth in his habeas petition [Dkt. 1]. Petitioner's habeas petition relies, incorrectly, on *Zadvydas v. Davis* to support his argument for release. See Dkt. 1 p. 4]. *Zadvydas* pertains to individuals that already have an order of removal entered against them who the government seeks to detain longer than six months. *Zadvydas v. Davis*, 533 U.S. 678 (2001). As Petitioner concedes, he entered the United States in May 2024 and is currently awaiting a hearing on his application before the immigration court where no final order of removal has been entered against him. Accordingly, the government's position is that Petitioner falls within the statutory definition of aliens in § 1225(b)(2), i.e., aliens present in the United States who have not been admitted. Even if Petitioner had been in re-detention for longer than six months, the procedures outlined under *Zadyvdas* would not be applicable in his situation and Petitioner would not be entitled to release as he is seeking admission to the United States. However, if a final removal order were in place, Respondents have been able to obtain travel documents for Iran and have no reason to believe obtaining one in Petitioner's case would be an issue. *See, e.g.,* www.bbc.com/news/articles/cgrql7gd10do (Sept. 30, 2025) (describing agreement for making removals to Iran, and the removals taking place); also

https://www.latimes.com/world-nation/story/2025-12-08/second-flight-of-iranian-deportees-carrying-55-has-left-u-s-iran-says (Dec. 8, 2025) (describing deportation flight to Iran).

Third, to the extent Petitioner argues he was not afforded notice that his re-detention was being revoked, Petitioner has failed to make any evidentiary showing of a putative re-detention violation that would justify immediate habeas release. As noted above, he does not have a final removal order, but rather is in removal proceedings. The government may detain somebody who is in removal proceedings if there are materially changed circumstances. Here, Petitioner violated the terms of his supervision sixteen times. *See* Declaration of Jonathan E. Sanchez "Sanchez Decl." ¶ 12. This many violations is certainly materially changed circumstances. The government is permitted to detain such individuals; their remedy, if any, is to seek an appropriate bond hearing that may apply, not immediate release.

Lastly, Petitioner presented documentation regarding a back injury [Dkt. 1 p. 10-32]. While access to medication for detainees is indeed important, it is not a basis for release. Detention centers are able to provide extensive medical services to detainees, including medication, and including outpatient services for particular extraordinary needs if that is warranted. *See, e.g.,* https://www.ice.gov/detain/detention-management/2025. More importantly here, the remedy for any such deficiency would be to provide the treatment, not to order release. It is well-established that habeas claims cannot be premised on complaints about conditions of confinement. *See Pinson v. Carvajal*, 69 F.4th 1059, 1073 (9th Cir. 2023). As the Ninth Circuit held, such claims lie outside the historic core of habeas corpus, for which the only available remedy is release, and thus the district court lacked jurisdiction to hear the petition regarding conditions of confinement. *Id.* at 1075. *See also Rhodes v. Pfeiffer,* No. CV 14-7687-JGB-KK, 2020 WL 4018608, at *2 (C.D. Cal. May 6, 2020) ("Petitioner's Motion essentially presents a challenge to the conditions of his confinement, which may not be addressed in this habeas corpus action.").

Accordingly, the TRO Application should be denied.

II. STATEMENT OF FACTS

Petitioner entered the United States on or about May 18, 2024. Declaration of Jonatha E. Sanchez "Sanchez Decl." ¶ 4. Petitioner was taken into custody and criminally charged under 8 U.S.C. §1325 for improper entry by an alien. ¶ 5. Petitioner was sentenced to time served. ¶ 6. Petitioner was taken into ICE custody on August 22, 2024 and processed for expedited removal. ¶ 7. A Notice to Appear (NTA) was served on Petitioner on October 3, 2024. ¶ 10. Petitioner was released from ICE custody, after 74 days, and placed on Intensive Supervision Appearance Program (ISAP) on or about November 4, 2024. ¶ 11. On or about October 14 2025, Petitioner was taken back into ICE custody after accumulating sixteen violations of the ISAP program between December 2024 and October 2025 and is currently being held at the Adelanto ICE Processing Center. ¶ 12.

III. STANDARD OF REVIEW

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

IV. ARGUMENT

A. The TRO Application Fails to Comply with Local Rule 65-1 and Fails to Submit Proper Admissible Evidence

Central District of California Local Civil Rule 65-1 provides that a party seeking a temporary restraining order "must submit … a declaration setting forth the facts and certification required by F.R.Civ.P. 65(b)(1)(A) and (B) …." Here, the Petition [Dkt. no.

1] and the TRO Application [Dkt. no. 3] contain no declaration and certification. Indeed, they contain no evidence or testimony. A moving party cannot carry its burden—particularly the heavy burden to establish preliminary injunctive relief—in this manner. For an order issued recently by the Hon. Judge Klausner denying an *ex parte* TRO application on this basis, *see Victor Manuel De Jesus Alas v. F. Semaia et al.*, 5:25-cv-02916-RGKL-AJR, Dkt. no. 7 (November 5, 2025 order denying ex parte application for temporary restraining order).

Accordingly, the TRO Application must be denied (albeit without prejudice) for this threshold reason alone. Failure to follow this rule is grounds for denying an application for a temporary restraining order. *See, e.g., Davis v. Gen. Atomics*, No. 8:23-cv-00132-JWH-JDE, 2023 WL 10407137, at *1 (C.D. Cal. Jan. 23, 2023), *appeal dismissed*, No. 24-4740, 2024 WL 4732563 (9th Cir. Oct. 25, 2024) (denying without prejudice ex parte application that did not comply with Local Rule 65-1, including by failing to include the "required declaration"); Orozco v. Aguila, No. 2:22-cv-05526-FWS (AFMx), 2022 WL 16858524, at *4 (C.D. Cal. Sept. 16, 2022) ("[T]he failure of the Application and supporting documents to satisfy Rule 65's and Local Rule 65-1's notice requirements, in addition to the presentation of an unsigned declaration to demonstrate notice . . . suggests sufficient grounds to deny the Application."); see also, United States v. Biden, No. 2:23-CR-00599-MCS-1, 2024 WL 3891843, at *1 (C.D. Cal. June 10, 2024) (striking TRO application for failure to comply with Local Rule 65-1); Christian v. Mattel, Inc., 286 F.3d 1118, 1129 (9th Cir. 2002) (affirming district court's enforcement of local rules and noting, "[t]he district court has considerable latitude in managing the parties' motion practice and enforcing local rules that place parameters on briefing").

B. Petitioner Incorrectly Relies on Zadvydas in His Argument That He Should Be Released From Detention

Petitioner argues he should be released from detention as there is no significant likelihood he would be removed to Iran in the reasonably foreseeable future as required by *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that

an alien is not entitled to habeas relief, after a **post-removal detention** period of six months, unless the alien can show that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." 533 U.S. at 701 (emphasis added). Petitioner does not have a final order of removal. His application remains pending before the immigration court and a final hearing on the merits of his claim has been scheduled for January 29, 2026. Sanchez Decl. ¶ 13. Accordingly, *Zadvydas* is inapplicable to the facts of Petitioner's situation. However, it should be noted that, even if *Zadvydas* were applicable, Petitioner was in ICE custody for just seventy-four (74) days in 2024 (Sachez Decl. ¶ 11) and from October 14, 2025 to the present day. (Sanchez Decl. ¶ 12). Even if taken together cumulatively, the six month detention period as outlined in *Zadyvdas* would still not apply.

C. Petitioner Has Not Exhausted Administrative Remedies

Petitioner has not asserted that he has filed a motion for a bond determination hearing before the Immigration Court. If so done and subsequently denied, he could appeal to the BIA. When a noncitizen fails to exhaust appellate review at the BIA, courts should "ordinarily" dismiss the habeas petition without prejudice or stay proceedings until he exhausts his appeals. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). Bypassing review at the BIA is "improper." *Id.* The Ninth Circuit identifies three reasons to require exhaustion before entertaining a habeas petition. *See Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). First, the agency's "expertise" makes its "consideration necessary to generate a proper record and reach a proper decision." *Id.* (*quoting Noriega–Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003)). Second, excusing exhaustion encourages "the deliberate bypass of the administrative scheme." *Id.* (*quoting Noriega–Lopez*). And third, "administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." Id. (*quoting Noriega–Lopez*). Each reason applies here.[1]

[1] Detention alone is insufficient to excuse a lack of exhaustion. *See, e.g., Delgado,*

(footnote cont'd on next page)

Petitioners might argue that the § 1225(b) bond hearing issue does not need further exhaustion, given the BIA's decision in *Matter of Yajure Hurtado.* While that specific argument is understandable, green-lighting Petitioner's strategy to skip the process before EOIR needlessly increases the burden on district courts. *See Bd. of Tr. of Constr. Laborers' Pension Trust for S. Calif. v. M.M. Sundt Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) ("Judicial economy is an important purpose of exhaustion requirements."); *see also Santos-Zacaria v. Garland*, 598 U.S. 411, 418 (2023) (noting "exhaustion promotes efficiency").

In sum, Petitioner's challenge to his arrest and detention is defective because it fails to exhaust administrative remedies.

D. Petitioner Has Not Shown He Will Suffer Irreparable Harm Absent A TRO.

Petitioner has not demonstrated that he will suffer irreparable injury absent his immediate release by TRO. To show irreparable harm, he must demonstrate "immediate threatened injury." *Carribean Marine Servs. Co., Inc. v. Baldridge*, 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)). "Issuing 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

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2017 WL 4776340, at *2. Adopting such a rationale "would essentially mandate the release of all detainees while their appeals were pending, and thereby stand the exhaustion requirement on its head." *Meneses v. Jennings*, 2021 WL 4804293, at *5 (N.D. Cal. Oct. 14, 2021), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024); *see also Bogle v. DuBois*, 236 F. Supp. 3d 820, 823 n. 6 (S.D.N.Y. 2017) (noting that "continued detention . . . is insufficient to qualify as irreparable injury justifying non-exhaustion") (quotation marks omitted). "[C]ivil detention after the denial of a bond hearing [does not] constitute[] irreparable harm such that prudential exhaustion should be waived." *Reyes v. Wolf*, 2021 WL 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v. Mayorkas*, No. 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021); *see also Aden*, 2019 WL 5802013, at *3 (Plaintiff "cites no authority for the position that detention following a bond hearing constitutes irreparable harm sufficient to waive the exhaustion requirement.").

plaintiff is entitled to such relief. *Winter*, 555 U.S. 7 at 22 (2008).

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

E. The Balance of Interests Favors the Government

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 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). This public interest outweighs Petitioner's private interest here.

V. CONCLUSION

Petitioner's TRO Application should be denied.

Dated: December 12, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 2053 words, which complies with the

word limit of L.R. 11-6.1.

Dated: December 3, 2025

/s/ Karen E. Smith
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