

District Judge Tana Lin

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALMA LORENA TORRES FERRERA,

Petitioner,

v.

BRUCE SCOTT, *et al.*,

Respondents.

Case No. 2:26-cv-00583-TL

FEDERAL RESPONDENTS’¹ OPPOSITION TO
PETITIONER’S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER

**Noted for consideration:
March 8, 2026**

I. INTRODUCTION

This Court should deny Petitioner Alma Lorena Torres Ferrera’s motion for a temporary restraining order (“TRO”) seeking a stay of her removal and transfer outside of this District. Dkt. No. 7, Mot. U.S. Immigration and Customs Enforcement (“ICE”) lawfully detains Petitioner pursuant to 8 U.S.C. § 1231(a)(6) because she is subject to a reinstated removal order. Pursuant to this Court’s Scheduling Order (Dkt. No. 2), Federal Respondents notified Petitioner and her counsel of her imminent removal on March 4, 2026. Mot., at 1.

Petitioner cannot demonstrate that she is entitled to the extraordinary remedy of a TRO because she cannot establish that she will suffer irreparable harm absent the requested injunction.

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney’s Office.

1 Petitioner asserts that her current detention is unlawful, but it is indisputable that her detention will
2 end when he is removed to Honduras. Furthermore, regardless of the outcome of this habeas
3 litigation concerning the lawfulness of Petitioner's detention, Petitioner is subject to an executable
4 reinstated removal order. If granted, this Motion will only prolong her detention as her pending
5 removal will be delayed.

6 Federal Respondents have filed a return to the petition. Dkt. Nos. 4, 5, 6. This Court is
7 respectfully referred to those filings for the factual and legal backgrounds.

8 **II. LEGAL STANDARD**

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10 The standard for issuing a temporary restraining order is "substantially identical" to the
11 standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*,
12 240 F.3d 832, 839 n.7 (9th Cir. 2001). "It frequently is observed that a preliminary injunction is
13 an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear*
14 *showing*, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)
15 (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555
16 U.S. 7, 22 (2008).

17
18 A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on
19 the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the
20 balance of equities tips in her favor, and (4) an injunction is in the public interest. *See Winter*, 555
21 U.S. at 20 ("*Winter* factors"). Alternatively, a plaintiff can show that there are "serious questions
22 going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the
23 second and third *Winter* factors are satisfied." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d
24 848, 856 (9th Cir. 2017) (internal quotation omitted).

1 The purpose of preliminary injunctive relief is to preserve the status quo pending final
2 judgment, rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v.*
3 *Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

4 **III. ARGUMENT**

5 **A. This Court lacks jurisdiction to halt the execution of a valid order of removal.**

6 In the exercise of its constitutional power to define federal court jurisdiction, in 1996,
7 Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”),
8 which repealed the existing scheme for judicial review of final orders of deportation, and replaced
9 it with a more restrictive scheme. *See Reno v. American-Arab Anti-Discrimination Committee*
10 (*“AADC”*), 525 U.S. 471, 474 (1999). Among the IIRIRA amendments to the Immigration and
11 Nationality Act (“INA”), Congress provided in the newly-enacted section 1252(g) that:
12

13 Except as provided in this section and notwithstanding any other
14 provision of law, no court shall have jurisdiction to hear any cause or
15 claim by or on behalf of any alien arising from the decision or action by
16 the Attorney General to commence proceedings, adjudicate cases, or
execute removal orders against any alien under this Act.

17 8 U.S.C. § 1252(g) (1996). In the 2005 REAL ID Act, Congress amended section 1252(g) to
18 clarify that the statute’s proscription against jurisdiction does in fact apply to habeas actions, such
19 as the one Petitioner now brings before this Court. *See REAL ID Act of 2005*, Pub. L. No. 109-13,
20 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID Act, section
21 1252(g), now provides that:

22 Except as provided in this section and notwithstanding any other
23 provision of law, (*statutory or nonstatutory*), including section 2241 of
24 Title 28, or any other habeas corpus provision, and sections 1361 and
25 1651 of such title, no court shall have jurisdiction to hear any cause or
26 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 against any alien under this chapter.

1 8 U.S.C. § 1252(g) (2017) (emphasis added).

2 In addition to the bar to jurisdiction at section 1252(g), the IIRIRA and REAL ID Act
3 amendments to the INA also reflect Congress’s desire to “streamline immigration proceedings”
4 and to “effectively limit all aliens to one bite of the apple with regard to challenging an order of
5 removal.” *Singh v. Gonzales*, 499 F.3d 969, 976-77 (9th Cir. 2007) (quoting *Bonhometre v.*
6 *Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005)). Under these amendments, individuals who seek to
7 challenge an order of removal may do so, but only as part of a petition for review in the appropriate
8 court of appeals, as provided under section 1252. In particular, section 1252(b)(9) provides that:
9

10 Judicial review of all questions of law and fact, including interpretation
11 and application of constitutional and statutory provisions, arising from
12 any action taken or proceeding brought to remove an alien from the
13 United States under this subchapter *shall be available only in judicial*
14 *review of a final order under this section.* Except as otherwise provided
15 in this section, *no court shall have jurisdiction, by habeas corpus under*
16 *section 2241 of Title 28 or any other habeas corpus provision, by*
17 *section 1361 or 1651 of such title, or by any other provision of law*
18 *(statutory or nonstatutory), to review such an order or such questions of*
19 *law or fact.*

20 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“Notwithstanding any
21 other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other
22 habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with
23 an appropriate court of appeals in accordance with this section shall be the sole and exclusive
24 means for judicial review of an order of removal . . .”).

25 In *AADC*, the Supreme Court held that Section 1252(g) precludes judicial review of three
26 discrete actions that DHS may take: the “‘decision or action’ to ‘commence proceedings,
27 *adjudicate cases, or execute removal orders.*’” 525 U.S. at 482 (original emphasis). With a valid

1 order of removal, any request for this Court to enjoin Plaintiff's removal falls directly within one
2 of the discrete actions precluded from judicial review.

3 Numerous courts of appeals, including the Ninth Circuit, have consistently held that claims
4 seeking a stay of removal are barred by Section 1252(g). *See Rauda v. Jennings*, 55 F.4th 773,
5 778 (9th Cir. 2022) (holding Section 1252(g) barred plaintiff's claim seeking a temporary stay of
6 removal while he pursued a motion to reopen his immigration proceedings); *Camarena v. Dir.*,
7 *ICE*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause
8 or claim brought by an alien arising from the government’s decision to execute a removal order.
9 If we held otherwise, any petitioner could frame his or her claim as an attack on the government’s
10 authority to execute a removal order rather than its execution of a removal order.”); *E.F.L. v. Prim*,
11 986 F.3d 959, 964-65 (7th Cir. 2021) (rejecting plaintiff’s argument that jurisdiction remained
12 because petitioner was challenging DHS’s “legal authority” as opposed to its “discretionary
13 decisions”); *Tazu v. Att’y Gen. U.S.*, 975 F.3d 292, 297 (3d Cir. 2020) (observing that “the
14 discretion to decide whether to execute a removal order includes the discretion to decide when to
15 do it” and that “[b]oth are covered by the statute”) (emphasis in original); *Hamama v. Adducci*,
16 912 F.3d 869, 874-77 (6th Cir. 2018) (vacating district court’s injunction staying removal,
17 concluding that Section 1252(g) stripped district court of jurisdiction over removal-based claims
18 and remanding with instructions to dismiss those claims); *Silva v. United States*, 866 F.3d 938,
19 941 (8th Cir. 2017) (Section 1252(g) applies to constitutional claims arising from the execution of
20 a final order of removal, and language barring “any cause or claim” made it “unnecessary for
21 Congress to enumerate every possible cause or claim”).
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25 Even if Section 1252(g) did not bar review, Sections 1252(a)(5) and 1252(b)(9) strip this
26 Court of jurisdiction. By law, “the sole and exclusive means for judicial review of an order of
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1 removal” is a “petition for review filed with an appropriate court of appeals,” that is, “the court of
2 appeals for the judicial circuit in which the immigration judge completed the proceedings.” 8
3 U.S.C. §§ 1252(a)(5), (b)(2). Section 1252(b)(9) then eliminates this Court’s jurisdiction over
4 Petitioner’s claims by channeling “all questions of law and fact, including interpretation and
5 application of constitutional and statutory provisions, arising from any action taken or proceeding
6 brought to remove an alien” to the courts of appeals. 8 U.S.C. § 1252(b)(9). Again, the law is
7 clear that “no court shall have jurisdiction, by habeas corpus” or other means. *Id.*
8

9 Section 1252(b)(9) is an “unmistakable ‘zipper’ clause” that “channels judicial review of
10 all” claims arising from deportation proceedings to a court of appeals in the first instance. *AADC*,
11 525 U.S. at 483. Under Ninth Circuit law, “[t]aken together, §§ 1252(a)(5) and [(b)(9)] mean
12 that any issue – whether legal or factual – arising from any removal-related activity can be
13 reviewed only through the [petition for review] process.” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031
14 (9th Cir. 2016); *see id.* at 1035 (“§§ 1252(a)(5) and 1252(b)(9) channel review of all claims,
15 including policies-and- practices challenges, through the PFR process whenever they ‘arise from’
16 removal proceedings”).
17

18 Petitioner is subject to a final reinstated removal order and has undergone the reasonable
19 fear process. Plaintiff’s motion seeks to halt the execution of her removal order. This squarely
20 falls within Section 1252 jurisdiction stripping and channeling provisions. Accordingly, this Court
21 lacks jurisdiction to enjoin DHS’s execution of Plaintiff’s expedited removal order.
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23 **B. Petitioner is unlikely to succeed on the merits.**

24 Petitioner’s detention is constitutionally and statutorily lawful. 8 U.S.C. § 1231(a)(6).
25 Return, at 4-6. ICE has a travel document and her removal is imminent. *Id.*, at 5. Thus, her
26 removal is likely to occur in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678,
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1 701 (2001). Furthermore, Petitioner has undergone the reasonable fear process available to
2 noncitizens subject to a reinstated order of removal. 8 C.F.R. § 208.31. On February 25, 2026, an
3 immigration judge conducted a de novo review of Petitioner’s fear claim of return to Honduras
4 and affirmed the negative credible fear finding. Dkt. No. 6, Ex. L, Order. Thus, Petitioner has
5 received all process available to her.

6 **C. Irreparable harm**

7
8 Petitioner has not demonstrated that she will suffer irreparable injury absent the injunctive
9 relief she seeks. To do so, she must demonstrate “immediate threatened injury.” *Caribbean*
10 *Marine Services Co., Inc.*, 844 F.2d at 674 (citing *Los Angeles Memorial Coliseum Commission v.*
11 *National Football League*, 634 F.2d 1197, 1201 (9th Cir.1980)). Merely showing a “possibility”
12 of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. “Issuing a preliminary injunction
13 based only on a possibility of irreparable harm is inconsistent with [the Supreme Court’s]
14 characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a
15 clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22.

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17 Petitioner’s family situation is sympathetic. However, many noncitizens subject to
18 removal orders have family in the United States that will be impacted upon their removal. *See*
19 *Taha v. Bostock*, No. 25-cv-649-RSM, 2025 WL 1126681, at *3 (W.D. Wash. Apr. 16, 2025)
20 (“The Court agrees with Defendants that Petitioner’s ‘irreparable harm-based argument begs the
21 constitutional questions presented in his petition by assuming that [P]etitioner has suffered
22 constitutional injury[,]’ and his emotional harm from this ‘loss of liberty’ is ‘common to all’ like
23 Petitioner.”); *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011) (“[A] noncitizen must show
24 that there is a reason specific to his or her case, as opposed to a reason that would apply equally
25 well to all aliens and all cases, that removal would inflict irreparable harm[.]”).
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1 Petitioner also claims that she will be irreparably harmed if removed because she has a
2 pending T-visa. Mot., at 7-8. But the filing of a T-visa application does not preclude enforcement
3 of a removal order. See 8 C.F.R. 215.204(a)(2)(i). Petitioner does not have a liberty or property
4 interest in her T-visa or its adjudication. *Garcia v. Noem*, No. 3:25-cv-06008-DGE, 2025 WL
5 3257553, at *2 (W.D. Wash. Nov. 22, 2025). Thus, Petitioner has not demonstrated irreparable
6 harm in the absence of the requested TRO.

7
8 There is no more process available to Petitioner to stop her removal. The relief sought in
9 this litigation is Petitioner's release – which will happen when she is removed. And no matter the
10 outcome of the habeas proceeding, Petitioner will still be subject to a reinstated removal order.
11 Thus, any purported “harm” will occur whether she is released or not. Accordingly, Petitioner has
12 not met her burden to demonstrate irreparable harm in the absence of a TRO.

13 **D. The balance of the equities and the public interests favor the Government.**

14 Finally, the balance of equities and the public interest weigh decisively against Plaintiff's
15 request for preliminary injunctive relief. Unlike some other requests for preliminary injunctive
16 relief where the constitutionality of a statute or regulation may be in question, here Petitioner asks
17 this Court to enjoin the enforcement of an unquestionably lawful and final removal order. It is
18 well settled that the public interest in enforcement of United States' immigration laws is
19 significant. See, e.g., *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's*
20 *House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme Court has
21 recognized that the public interest in enforcement of the immigration laws is significant.”) (citing
22 cases); see also *Nken v. Holder*, 556 U.S. 418, 435 (2009) (“There is always a public interest in
23 prompt execution of removal orders).

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26 **V. CONCLUSION**

1 For all the foregoing reasons, the TRO Motion should be denied.

2 DATED this 7th day of March, 2026.

3 Respectfully submitted,

4 s/ Michelle R. Lambert

5 MICHELLE R. LAMBERT, NY# 4666657

6 Assistant United States Attorney

7 United States Attorney's Office

8 1201 Pacific Avenue, Suite 1201

9 Tacoma, Washington 98402

10 Phone: 253-428-3824

11 Email: michelle.lambert@usdoj.gov

12 *I certify that this memorandum contains 2,370*
13 *words, in compliance with the Local Civil Rules.*

14 *Attorneys for Federal Respondents*