

Chief Magistrate Judge Theresa L. Fricke

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

SANIT VA CHA,

Petitioner,

v.

BRUCE SCOTT,¹ *et al.*,

Respondents.

Case No. 2:26-cv-01137-TLF

FEDERAL RESPONDENTS'
OPPOSITION TO PETITIONER'S
MOTION FOR A TEMPORARY
RESTRAINING ORDER

Noted for Consideration:
April 14, 2026.

I. INTRODUCTION

Petitioner's motion for a temporary restraining order is, in substance, an effort to delay the execution of a final order of removal. *See* Dkt. 10 ("TRO"). This Court lacks jurisdiction to grant that relief, and Petitioner cannot satisfy the demanding standard required for emergency injunctive relief in any event. Although Petitioner attempts to recast his request as one arising under habeas, the relief he seeks would operate to forestall removal: relief that is both jurisdictionally barred and unavailable on the merits.

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

Petitioner is subject to a final order of removal and is detained pursuant to 8 U.S.C. § 1231(a). His motion asks this Court to interfere with the Government's execution of that order. Congress has expressly limited federal court jurisdiction over such claims. See 8 U.S.C. § 1252(g); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Consistent with that limitation, the Ninth Circuit has made clear that district courts may not enjoin removal based on a noncitizen's pursuit of reopening of removal proceedings. *Rauda v. Jennings*, 55 F.4th 773, 777–78 (9th Cir. 2022).

Even if jurisdiction existed, Petitioner fails to meet his burden under *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Likelihood of success on the merits is the most critical factor, and Petitioner cannot make that showing. See *Geo Group v. Inslee*, 151 F.4th 1107, 1114 (9th Cir. 2025). He likewise fails to demonstrate irreparable harm, and the balance of equities and public interest weigh decisively against relief.

Because Petitioner seeks relief this Court cannot grant and fails to satisfy the governing legal standard, the motion for a temporary restraining order should be denied.

II. LEGAL STANDARD

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

A plaintiff seeking a preliminary injunction must show that: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the

balance of equities tips in his favor, and (4) an injunction is in the public interest. *See Winter*, 555 U.S. at 20 (“*Winter* factors”). Alternatively, a plaintiff can show that there are “serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter* factors are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation omitted).

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

III. ARGUMENT

A. Petitioner is Not Likely to Succeed on the Merits

1. Petitioner’s detention has not become indefinite.

In his TRO motion (Dkt. 10), Petitioner seemingly abandons his *Zadvydas* argument, and explicitly states that he “does not challenge the authority of the federal government to remove him.” TRO at 4. In so doing, he seeks relief on only one claim: that his re-detention violated due process. *Id.* (“He challenges the way in which the Government has re-detained him.”). Thus, the Court need not analyze this issue.

In the alternative, Petitioner’s detention has not become indefinite. First, Petitioner has not met his initial burden of demonstrating that his detention has become unconstitutionally indefinite. *Zadvydas*, 533 U.S. at 701. Even assuming *arguendo* that Petitioner had met his burden, the burden then shifts to the government to “respond with evidence sufficient to rebut that showing.” *Id.* Respondents have met that burden by showing that Petitioner will likely be removed to Laos in April 2026, and produced a copy of petitioner’s travel document. Dkt. 8 ¶ 17; Dkt. 9-3.

1 2. Petitioner was not entitled to a pre-deprivation notice or hearing.

2 Petitioner seeks that this Court grant his TRO solely for the purpose of determining
3 whether he was wrongfully re-detained. Petitioner argues that Respondents were required to
4 provide Petitioner with a pre-deprivation notice and a hearing before re-detaining him. *See*
5 *generally* Dkts. 1, 10.

6 “Before revoking supervised release and re-detaining a noncitizen, the Government must
7 satisfy procedural due process.” *Vo v. Scott*, No. 2:26-CV-00135-JNW, 2026 WL 445046, at *4
8 (W.D. Wash. Feb. 17, 2026). Courts in the Ninth Circuit have considered procedural due process
9 claims like Petitioner’s under *Mathews v. Eldridge*, 424 U.S. 319 (1976). *Ramirez Tesara v.*
10 *Wamsley*, 800 F. Supp. 3d 1130, 1135 (W.D. Wash. 2025). *Mathews* requires courts to consider
11 these three factors when determining whether a government action complies with procedural due
12 process:

13 First, the private interest that will be affected by the official action; second, the risk
14 of an erroneous deprivation of such interest through the procedures used, and the
15 probable value, if any, of additional or substitute procedural safeguards; and finally,
16 the Government’s interest, including the function involved and the fiscal and
17 administrative burdens that the additional or substitute procedural requirement
18 would entail.

19 *Mathews*, 424 U.S. at 334–35.

20 The first factor weighs against Petitioner’s argument that pre-deprivation notice and a
21 hearing were required. “Freedom from imprisonment—from government custody, detention, or
22 other forms of physical restraint—lies at the heart of the liberty” protected by the Fifth
23 Amendment’s Due Process Clause. *Zadvydas*, 533 U.S. at 690. However, a noncitizen’s liberty
24 interest in remaining in the community is reduced when they are subject to a final, executable
order of removal. Petitioner’s release on OSUP was always subject, in part, to ICE’s inability to
remove him at that time. This is especially so when removal is reasonably foreseeable, and

1 detention in service of removal no longer violates the INA as construed in *Zadvydas*. Because
2 ICE did not detain Petitioner until it had secured a travel document for his removal, his liberty
3 interest in freedom from immigration detention was significantly reduced.

4 The second factor also weighs against Petitioner. Although he points to several cases
5 requiring pre-deprivation notice and hearing, none of them involved a petitioner with a final
6 removal order and strong evidence of imminent removal (such as ICE's receipt of a travel
7 document). *See* Dkt. 1 at 4 (citing *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322-24 (W.D.
8 Wash. Aug. 19, 2025); *Tesara v. Wamsley*, No. C25-1723-KKE-TLF, 2025 WL 3288295, at *5
9 (W.D. Wash. Nov. 25, 2025); *Gonzalez v. Bostock*, 808 F. Supp. 3d 1109, 2025 U.S. Dist. LEXIS
10 198515, at *23-24 (W.D. Wash. Oct. 7, 2025); *Mohit Kumar v. Wamsley*, No. 2:25-CV-01772-
11 JHC-BAT, 2025 U.S. Dist. LEXIS 182775, at *7-8 (W.D. Wash. Sept. 17, 2025); Report &
12 Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-ML (W.D. Wash. Oct. 15,
13 2025), Dkt. 13; *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 U.S. Dist. LEXIS 219064,
14 at *5-6 (W.D. Wash. Nov. 6, 2025); *Zambrano-Vazquez v. Noem*, No. C26-122-RSM, 2026 U.S.
15 Dist. LEXIS 48184, at *6- 9 (W.D. Wash. March 9, 2026); *Abadin v. Noem*, No. C25-2411JLR-
16 SKV, 2026 U.S. Dist. LEXIS 16064, at *10-11 (W.D. Wash. Jan. 28, 2026)).

17 Here, the risk that his detention is an erroneous deprivation of his liberty is limited.
18 Because ICE did not detain Petitioner until it had secured a travel document, it is unlikely that
19 detaining him to facilitate that removal is erroneous, even without a hearing. If Respondents fail
20 to remove Petitioner and his detention *is* erroneous, he may seek relief under *Zadvydas*. This post-
21 deprivation remedy, along with the agency's regulations governing re-detention, is likely
22 sufficient to protect Petitioner's liberty interest in being free from indefinite detention when
23 removal is not foreseeable.

1 Petitioner also argues that removal to Laos may itself be an erroneous deprivation if he
2 cannot reopen his immigration proceedings and pursue a fear-based claim against removal. Dkt.
3 10 at 3-5. However, the Court does not have jurisdiction to prevent or delay removal to Laos on
4 this basis. Under 8 U.S.C. § 1252(g), this Court lacks jurisdiction to review “the decision or action
5 by the Attorney General to . . . execute removal orders” This bars review of the executive’s
6 discretion to decide both “whether” and “when” to execute a valid removal order. *Rauda v.*
7 *Jennings*, 55 F.4th 773, 777 (9th Cir. 2022) (quoting *Tazu v. Att’y Gen. United States*, 975 F.3d
8 292, 297 (3d Cir. 2020)). In *Rauda*, the Ninth Circuit held that district courts lack jurisdiction to
9 enjoin execution of a removal order pending a decision on a noncitizen’s motion to reopen their
10 immigration proceedings. 55 F.4th at 777–78. There is no meaningful distinction between *Rauda*
11 and Petitioner’s request that execution of his removal order be stayed while his motion to reopen
12 is pending or to pursue other immigration relief. *See* Dkt. 10 at 3-4. Similarly, Petitioner’s request
13 that he be released from custody so that he can make his own arrangements for departure to Laos
14 goes solely to the executive’s discretion over whether and when to execute his removal order.

15 While Petitioner asserts medical concerns and whether they can be adequately addressed
16 in Laos, *Mathews* requires that Petitioner demonstrate flaws in the government’s deportation
17 *procedures*, rather than the substance of the IJ’s removal order or the executive’s decision to
18 enforce it. *See Mathews*, 424 U.S. at 334–35; *see also Saechao v. Scott*, No. 2:26-CV-00548-
19 TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026). For the second *Mathews* prong, that
20 means showing the risk of erroneous deprivation *due to such a procedural failure*. *Mathews*, 424
21 U.S. at 335. Petitioner has not made such a showing here.

22 The third and final factor similarly favors Respondents. The government “has a legitimate
23 interest in ensuring that a noncitizen subject to a final order of removal appears when necessary
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1 to facilitate removal.” *See Saelee v. Bondi*, No. 2:25-CV-02677-TLF, 2026 WL 221513, at *6
2 (W.D. Wash. Jan. 28, 2026) (citing *Tran v. Bondi*, No. 2:25-CV-02335-DGE-TLF, 2025 WL
3 3725677, at *3 (W.D. Wash. Dec. 24, 2025)). Stronger yet is that interest where, as here, the
4 government has shown that removal is imminent, and thus likely to occur in the reasonably
5 foreseeable future. *But see id.* at *7 (holding that “the government’s interest in re-detaining a
6 noncitizen, who has not violated the terms of their release nor whose removal has not been
7 established to be likely to occur in the reasonably foreseeable future, without a pre-detention
8 hearing or some other pre-detention process is low.”).

9 The existing procedures for OSUP revocation are constitutionally sufficient and Petitioner
10 has failed to demonstrate that his detention violates ICE’s regulations. Respondents provided
11 Petitioner with proper notice, and he refused an informal interview. Dkt. 9-2; Dkt. 8 ¶ 13.
12 Petitioner provides no evidence that ICE violated its regulations when they re-detained him. Even
13 assuming *arguendo* that Respondents provided effectively no pre-detention process as Petitioner
14 argues, the *Mathews* factors still fall in their favor because they did not seek to detain Petitioner
15 without a hearing until they had made concrete arrangements for his removal. The cascade of
16 effects from that imminent removal, however serious, are the result not of unlawful procedures
17 but rather the executive’s discretionary choices.

18 Accordingly, Petitioner is unlikely to succeed on the merits of this claim

19 3. Petitioner has not shown that his detention prior to removal is unconstitutionally
20 punitive.

21 In his motion for a TRO, Petitioner argues that even if his removal is likely to occur soon,
22 his detention is punitive. Dkt. 10 at 17-19. This argument fails. When Petitioner was detained, the
23 government had already received a travel document for his deportation to Laos. Petitioner also
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1 does not show any failures by NWIPC's medical staff, nor that any failures "were intended to
2 punish him, or were excessive in relation to legitimate non-punitive purpose served by his
3 detention." *Sorio v. Hermosillo*, No. 2:25-CV-02492-TL, 2026 WL 413530, at *7 (W.D. Wash.
4 Feb. 13, 2026) (citing *Jones v. Blanas*, 393 F.3d 918, 934 (9th Cir. 2004)). Rather, he argues that
5 had he been given more notice, he would have been able to make better arrangements for medical
6 care in Laos. Any concerns regarding consequences of removal are not within the jurisdiction of
7 this court, but in the exclusive jurisdiction of the Ninth Circuit. *See* 8 U.S.C. § 1252(g). Petitioner
8 has not shown objectively unreasonable failures of care, nor the severe consequences from such
9 failure that indicate a violation of substantive due process. *Sorio*, 2026 WL 413530, at *10
10 (finding detention was punitive where NWIPC's errors "more likely than not resulted in
11 permanent disability, including the loss of [the petitioner's] toe and part of his foot").

12 4. This Court Lacks Jurisdiction to Enjoin Execution of the Removal Order

13 None of Petitioner's remaining claims entitle him to a stay of removal, even if he succeeds
14 on them. Congress has expressly limited judicial review over the decision to execute removal
15 orders. Section 1252(g) provides that "no court shall have jurisdiction to hear any cause or claim"
16 arising from the decision or action to "commence proceedings, adjudicate cases, or execute
17 removal orders." 8 U.S.C. § 1252(g).

18 The Supreme Court has held that this provision applies to these "three discrete actions,"
19 including the decision to execute removal orders. *Reno*, 525 U.S. at 482. The Ninth Circuit has
20 further clarified that the discretion to execute a removal order includes the discretion to decide
21 when to do so. *Rauda*, 55 F.4th at 777-78; *see e.g., Aleman v. Bondi*, No. 2:25-CV-02346-JNW,
22 2026 WL 102457, at *4 (W.D. Wash. Jan. 14, 2026).

23 Petitioner asks this Court to prevent his transfer and removal while he seeks reopening of
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his immigration proceedings. That is precisely the type of relief barred by § 1252(g). *See Rauda*, 55 F.4th at 778 (holding district court lacked jurisdiction to stay removal while motion to reopen was pending); *see e.g., Saechao v. Scott*, No. 2:26-CV-00548-TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026); *Aleman v. Bondi*, No. 2:25-CV-02346-JNW, 2026 WL 102457, at *4 (W.D. Wash. Jan. 14, 2026); *Velasco Gomez v. Scott*, No. C25-0522JLR-BAT, 2025 WL 1726465, at *4-6 (W.D. Wash. June 20, 2025); *Martin v. Bondi*, 2:26-CV-00749-DGE, 2026 WL 699354, at *1 (W.D. Wash. Mar. 12, 2026); *but see Yang v. Scott*, 2:26-CV-00469-JNW, 2026 WL 523277, at *2 (W.D. Wash. Feb. 25, 2026).

B. Petitioner Has Not Shown Irreparable Harm

Petitioner's argument that removal will prevent him from pursuing reopening or other immigration relief is foreclosed by § 1252(g) and *Rauda*. *See* Dkt. 10, pg. 10 (explicitly stating that Petitioner seeks to stay or delay his removal to pursue reopening his removal proceedings). The possibility that removal may affect pending or contemplated immigration relief does not confer jurisdiction on this Court to halt execution of a valid removal order. In any event, removal itself does not foreclose Petitioner's ability to pursue his motion to reopen from abroad.

To obtain a TRO, Petitioner must show that irreparable harm is likely in the absence of relief. *Winter*, 555 U.S. at 20. Under *Nken*, the burden of removal alone cannot constitute the requisite irreparable injury. *Rojas-Espinoza v. Bondi*, 160 F.4th 991, 993 (9th Cir. 2025) (citing *Nken v. Holder*, 556 U.S. 418 (2009)). Rather, a petitioner seeking a stay of removal must show irreparable harm that is specific to his or her case, as opposed to a reason that would apply equally well to all aliens and all cases, and must show that an irreparable injury is the more probable or likely outcome.

Here, Petitioner fails to state any facts beyond that which would apply equally well to all aliens and all cases. *See* Dkts. 1, 10. Nothing distinguishes Petitioner from any other person in

immigration detention who challenges their arrest and detention. *See Taha v. Bostock*, No. C25-649-RSM, 2025 WL 1126681, at *3 (W.D. Wash. Apr. 16, 2025) (“The Court agrees with Defendants that Petitioner’s ‘irreparable harm-based argument begs the constitutional questions presented in his petition by assuming that [P]etitioner has suffered constitutional injury[,]’ and his emotional harm from this ‘loss of liberty’ is ‘common to all’ like Petitioner.”); *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011) (“[A] noncitizen must show that there is a reason specific to his or her case, as opposed to a reason that would apply equally well to all aliens and all cases, that removal would inflict irreparable harm[.]”).

Thus, Petitioner fails to demonstrate irreparable harm here.

C. The Balance of Equities and Public Interest Weigh Against Relief

The final two Winter factors merge when the Government is a party. *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d 1134, 1141 (9th Cir. 2020). These factors also tip sharply in Federal Respondents’ favor. The Government has a strong interest in the enforcement of final orders of removal and in the orderly administration of immigration law under the framework established by Congress. *See* 8 U.S.C. § 1252(g).

Granting the requested relief would intrude upon the statutory scheme governing execution and adjudication of removal orders. Where Congress has expressly limited jurisdiction and the Ninth Circuit has applied those limits to similar circumstances, the public interest does not favor judicial intervention. Petitioner has not demonstrated a clear entitlement to release, reopening, or a stay of removal. Under *Winter*, the balance of equities and the public interest weigh against the extraordinary relief he seeks.

IV. CONCLUSION

For the foregoing reasons, the Motion for Temporary Restraining Order should be denied.

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1 Dated this 14th day of April, 2026.

2 Respectfully submitted,

3 s/ Alixandria K. Morris

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14 I certify that this memorandum contains 2,925
15 words, in compliance with the Local Civil Rules.