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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

EDUARDO RUIS GARCIA,

Petitioner,

v.

SERGIO ALBARRAN, et al.,

Respondents.

CASE NO. 3:26-cv-12237-RFL

RESPONDENTS' OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

Petitioner was arrested in the interior of the United States, and under recent Ninth Circuit precedent, is subject to detention under 8 U.S.C. § 1226(a), pending a decision on whether he was to be removed. Under the Immigration and Nationality Act ("INA"), U.S. Immigration and Customs Enforcement ("ICE") therefore was entitled to initiate removal proceedings against Petitioner and detain him under 8 U.S.C. § 1226(a) pending a decision on whether he is to be removed. DHS exercised its discretion to do precisely that on October 16, 2026.

Petitioner is unlikely to succeed on the merits as ICE had lawfully arrested Petitioner on a warrant, he is not entitled to a pre-deprivation hearing, and he has failed to exhaust his administrative remedies. Additionally, Petitioner does not meet his burden of establishing that he will be irreparably harmed absent a temporary restraining order ("TRO") or that the balance of equities and public interest weigh in his favor. Finally, as the Court intends to adjudicate the habeas petition and motion for TRO simultaneously and both seek the same relief, any TRO issued would immediately become moot or superseded upon the adjudication of the petition.

I. FACTUAL BACKGROUND

Respondents hereby incorporate the factual background previously addressed in their Return To Petition For Writ Of Habeas Corpus ("Return"). *See* Dkt. No. 6 at 5–7.

II. LEGAL STANDARD

A. The Temporary Restraining Order 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). 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." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). To obtain relief, the moving party must show that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. NRDC*, 555 U.S. 7, 20 (2008).

The purpose of a preliminary injunction 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). "A preliminary injunction can take two forms." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory injunction prohibits a party from taking action and 'preserves the status quo pending a determination of the action on the merits.'" *Id.* (internal quotation omitted). "A mandatory injunction orders a responsible party to take action," as Petitioner seeks here. *Id.* at 879 (internal quotation omitted). "A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored." *Id.* "In general, mandatory injunctions are not granted unless extreme or very serious damage will result and are not issued in doubtful cases." *Id.* Where plaintiffs seek a mandatory injunction, "courts should be extremely cautious." *Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation omitted). The moving party "must establish that the law and facts *clearly favor* [their] position, not simply that [they are] likely to succeed." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis original).

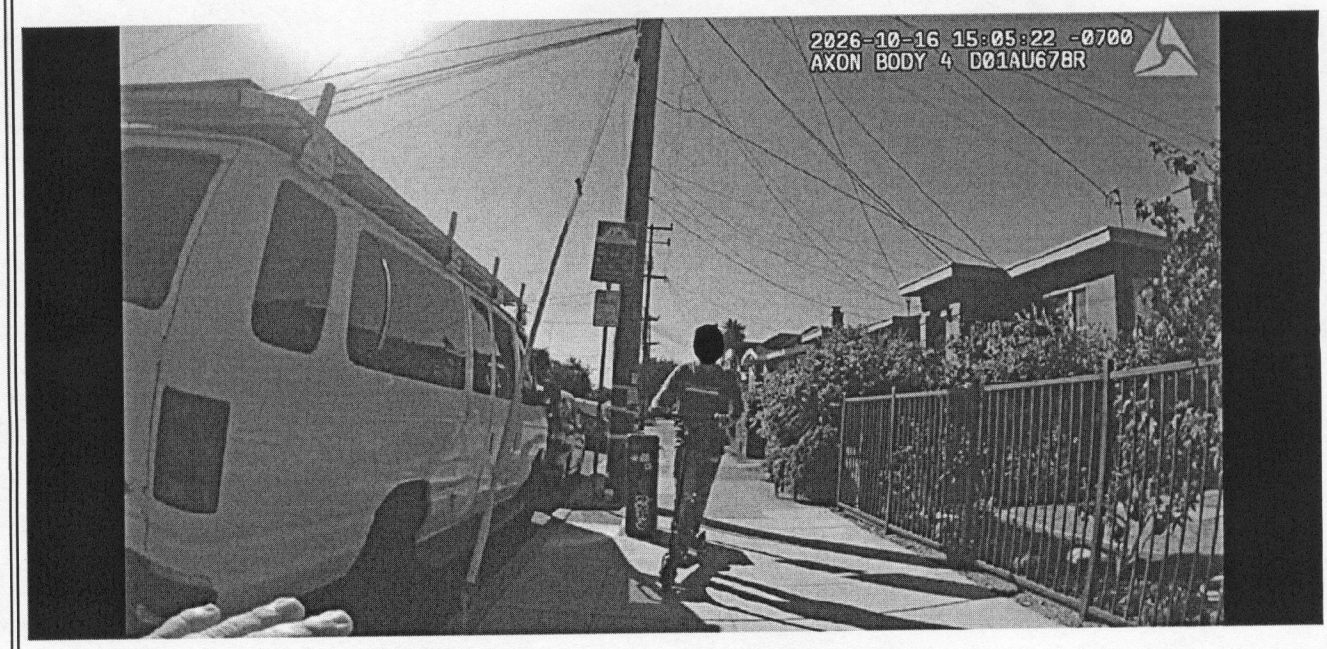
III. ARGUMENT

Petitioner is unlikely to succeed on the merits of his claim for the reasons explained in Respondents' Return. *See generally* Dkt. No. 6. Additionally, as this Court has set a hearing to simultaneously address both the habeas petition and the motion for TRO, the adjudication of the petition would supersede any TRO issued, as they both seek the same relief. *See* Dkt. No. 7.

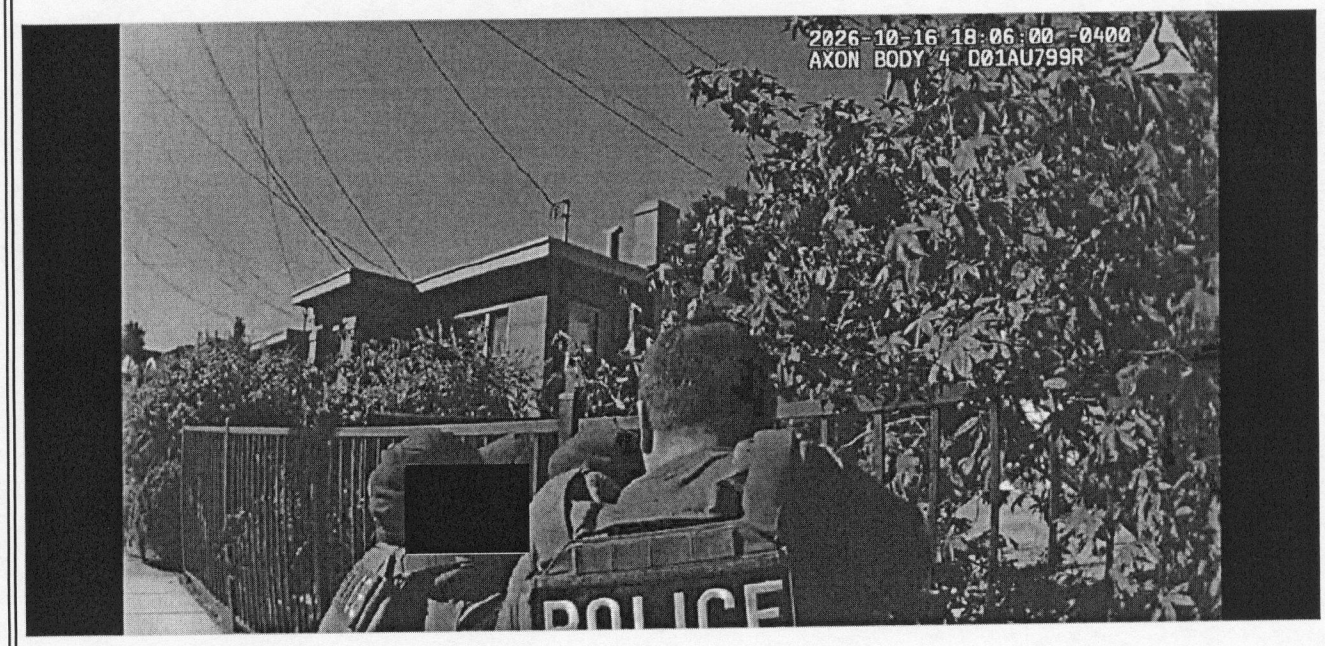
A. Petitioner Has Not Met His Burden to Show Likely Irreparable Harm Without Immediate Injunctive Relief

In addition to his failure to show a likelihood of success on the merits, Petitioner does not meet his burden of establishing that he will be irreparably harmed absent a temporary restraining order. Petitioner primarily claims two categories of injury: (1) constitutional deprivation of rights based on detention; and (2) physical and mental harm. Dkt. No. 5 at 9–10.

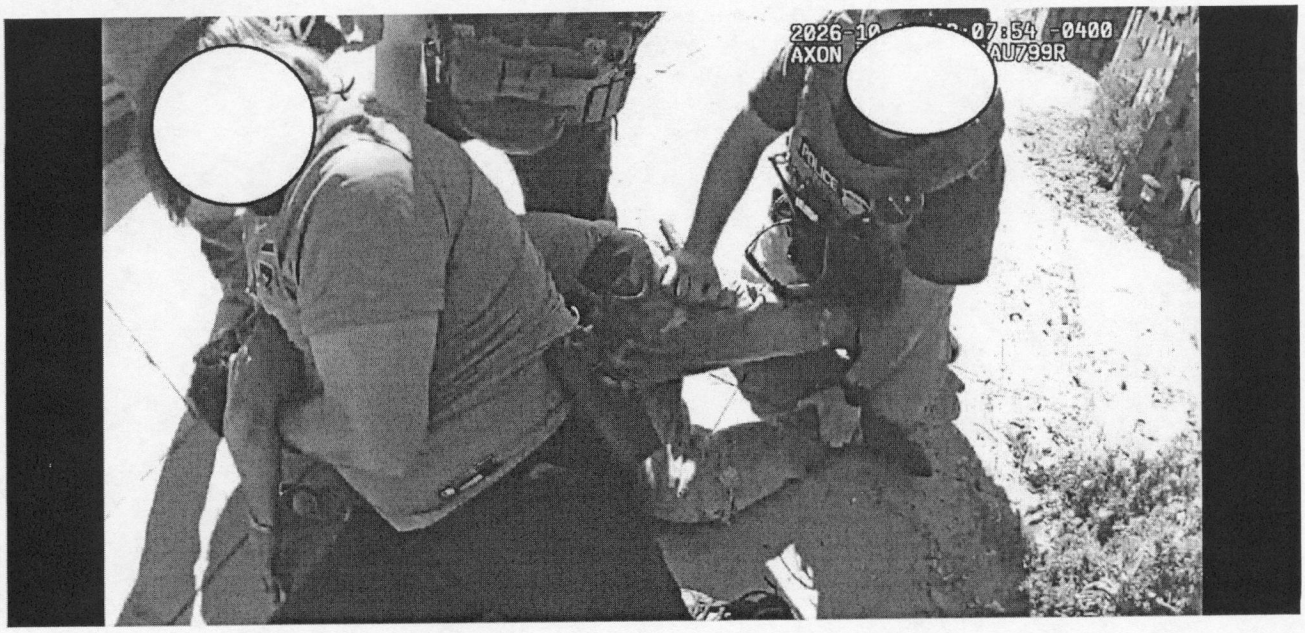
Petitioner's statements in the submitted declarations should be viewed with heavy skepticism. Petitioner claims that he was arrested when "walking by himself down a street." Dkt. No. 5-1 at ¶ 7. This is false. He was riding his scooter when encountered:



Petitioner then claims that he was initially arrested by plain clothes agents. *Id.* at ¶ 7-8. This is false. He was first arrested by two agents with visible "POLICE" markings:



Petitioner additionally claims that "When agents tackled Petitioner and an agent of roughly 280 pounds sat on his chest, they fractured six of his ribs and left cuts, abrasions, and bruises across his face, arms, hands, and legs." Dkt. No. 5-1 at ¶¶ 7-8. However, as the bodycam screenshot here shows, no agent sat on his chest:



Accordingly, Petitioner's claims in the Preciado Declaration should be given minimal weight and should not serve as a basis for relief.

Any alleged harm from the fact of detention alone is insufficient because "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993) ("Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952). And as noted by the Ninth Circuit in *Rodriguez Diaz*, the risk of erroneous deprivation and value of additional process is small due to the procedural safeguards that Section 1226(a) provides. 53 F.4th at 1209. Petitioner is entitled to request a bond hearing before an immigration judge, and if he can show that he would not pose a flight risk or danger, he may be released. Accordingly, Petitioner cannot establish that his lawfully authorized detention would cause irreparable harm.

Additionally, the alleged infringement of Petitioner's rights is insufficient when—as here—

Petitioner fails to demonstrate "'a sufficient likelihood of success on the merits of [his] constitutional claims to warrant the grant of a preliminary injunction.'" *Marin All. For Med. Marijuana v. Holder*, 866 F. Supp. 2d 1142, 1160 (N.D. Cal. 2011) (quoting *Assoc'd Gen. Contractors of Cal., Inc. v. Coal for Econ. Equity*, 950 F.2d 1401, 1412 (9th Cir. 1991)); *see also Meneses v. Jennings*, No. 21-cv-7193, 2021 WL 4804293, at *5 (N.D. Cal. Oct. 14, 2021) (denying TRO where petitioner "assume[d] a deprivation to assert the resulting harm").

Next, Petitioner's claimed harm would be inherently linked with *any* detention, regardless of whether it is lawful or unlawful. *See Herrera v. Noem*, 825 F. Supp. 3d 1025, 1044 (D. Ariz. 2026) ("That he may suffer consequences resulting from his detention does not mean he is suffering such consequences 'needlessly.'") (citing *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017)); *see also id.* ("Indeed, the court noted that the harms of detention would 'continue to occur needlessly,' indicating that such harms would not be sufficient to tip in favor of a petitioner complaining of immigration detention if such detention were lawful.") (citing *Hernandez*, 872 F.3d at 995). Finally, Petitioner's claimed harm that ICE agents "forbade hospital staff from helping him call his family or a lawyer" is clearly inaccurate, considering that information came from a declaration, signed under penalty of perjury, from an immigration attorney who met with Petitioner in the hospital. *See* Dkt. No. 5-1 at ¶¶ 5, 11.

B. The Balance of Equities and Public Interest

When the government is a party, the last two factors that Petitioner must establish to obtain a preliminary injunction merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). Petitioner's motion ignores the public interest in application of immigration laws that the Supreme Court has long upheld. *See, e.g.*, *Demore*, 538 U.S. at 523; *see also Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (holding that the court "should give due weight to the serious consideration of the public interest" in enacted laws). Even if Petitioner's claimed harm was cognizable, it cannot outweigh this public interest in application of the law, particularly since courts "should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982) (citation omitted). While it is "always in the public interest to protect constitutional rights," if, as here, the

Petitioner has not shown a likelihood of success on the merits of that claim, that public interest does not outweigh the competing public interest in enforcement of existing laws. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). The public and governmental interest in upholding the existing regulatory scheme, ensuring that the role of the immigration courts is not usurped or improperly collaterally attacked through habeas proceedings, and requiring Petitioner to avail himself of the procedure protections already afforded by the § 1226(a) framework rather than creating additional, burdensome processes, is significant.

C. The Issue of Ultimate Relief Must Not Be Decided in A TRO

The only appropriate relief sought by Petitioner in the motion for a TRO, i.e., release from custody, is the same ultimate relief Petitioner seeks in the underlying habeas petition. Consequently, the relief Petitioner seeks in the motion for a TRO is not "temporary" or "preliminary" but rather it is effectively final judgment on the merits of the habeas petition. "[I]t is generally inappropriate for a federal court at the preliminary-injunction stage to give a final judgment on the merits." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981); *see also Senate of Cal. v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992) ("[J]udgment on the merits in the guise of preliminary relief is a highly inappropriate result."). This result is particularly inappropriate when the TRO granting ultimate relief is issued ex-parte, without the opportunity for effective preparation of Respondents' counsel and Respondents' right to be heard.

Because Petitioner's motion for a TRO and habeas petition both seek release from detention, the Court must deny the motion for a TRO. *See, e.g., Rodas v. Samiea*, No. 5:26-cv-65, 2026 WL 184226, at *1 (C.D. Cal. Jan. 19, 2026) (denying petitioner's request for release from immigration detention on motion for TRO because it is "duplicative of his request for that same relief on the merits"); *Aslan v. Wamsley*, No. 2:25-cv-2698, 2026 WL 84000, at *2 (W.D. Wash. Jan. 12, 2026) (denying immigration habeas TRO seeking release because "[t]he appropriate vehicle for resolving Aslan's due process claim is his habeas petition."); *Dzhanpolatov v. USCIS,* No. 25-cv-3314, 2025 WL 1652427, at *2 (N.D. Cal. May 26, 2025) (denying a motion for TRO because "while characterized as preliminary relief, Dzhanpolatov effectively seeks judgment on the merits."); *Chavez v. Murray*, No. 1:25-cv-198, 2025 WL 1017678, at *2 (E.D. Cal. Apr. 4, 2025) (denying a motion for TRO because it "seeks only to alter the status quo by issuing an expedited order that would grant him the ultimate relief he seeks in his

petition."); *Keo v. Warden of Mesa Verde ICE Processing Ctr.*, No. 1:24-cv-919, 2024 WL 3970514, at *2 (E.D. Cal. Aug. 28, 2024); *Mendez*, WL 2604585, at *3.

IV. CONCLUSION

For the foregoing reasons, the Court should deny the motion, dismiss the habeas petition, and enter judgment in favor of Respondents.

Dated: October 23, 2026

Respectfully submitted,

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