

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Joao Alexandre Dos Reis Franco v. Craig Meyer, et al.

Dos Reis Franco v. Meyer · No. 1:25-cv-01620-DAD-CKD · Decided November 25, 2025

OPINION

Meyer

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 JOAO ALEXANDRE DOS REIS No. 1:25-cv-01620-DAD-CKD

FRANCO,

12 Petitioner,

13 ORDER GRANTING IN PART

v. PETITIONER’S EX PARTE MOTION FOR A

14 TEMPORARY RESTRAINING ORDER

CRAIG MEYER, et al., 15 Respondents. 16 (Doc. No. 7) 17 18 19 This matter is before the court
on petitioner’s ex parte motion for a temporary restraining 20 order filed on November 11, 2025.
(Doc. No. 7.) For the reasons explained below, the court will 21 grant petitioner’s motion in part.

22 BACKGROUND

23 On November 3, 2025, petitioner Joao Alexandre Dos Reis Franco filed a petition for writ 24
of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his detention by United States 25
Immigration and Customs Enforcement (“ICE”). (Doc. No. 1.) Petitioner asserts the following 26
three claims in that petition: (1) violation of the Fifth Amendment Due Process Clause; (2) his 27
detention is unlawful because a pending I-485 places him within the period of an authorized stay;
28 and (3) unlawful detention in violation of the Administrative Procedure Act (“APA”). (Id. at 1
¶¶ 40–60.) In support of the pending motion for a temporary restraining order, petitioner has 2
presented evidence of the following. 3 On November 3, 2025, petitioner appeared for his
scheduled adjustment of status 4 interview at USCIS San Francisco Field Office. (Doc. No. 7-1 at
1.) Petitioner was accompanied 5 by his U.S. citizen spouse. (Id.) At the conclusion of the
interview, ICE agents arrested 6 petitioner. (Id. at 1–2.) Petitioner’s Form I-485, Application to
Adjust Status, remains pending 7 with USCIS. (Id. at 2.) 8 On November 11, 2025, petitioner filed
his motion for a temporary restraining order. 9 (Doc. No. 7.) In that motion, petitioner requests
that the court enjoin respondents from 10 transferring or removing him pending resolution of this

federal habeas action, enjoin respondents 11 from denying or interfering with the adjudication of his pending Form I-485 application, and 12 order his immediate release from custody. (Id. at 19.) On November 14, 2025, respondents filed 13 their opposition to the motion and a supporting declaration. (Doc. Nos. 9, 10.) On November 18, 14 2025, the previously assigned district judge ordered the matter transferred from the U.S. District 15 Court for the Northern District of California to this district court. (Doc. No. 15.) On November 16 21, 2025, the undersigned set a deadline for the filing of petitioner’s reply. (Doc. No. 18.) On 17 November 24, 2025, petitioner filed his reply. (Doc. No. 19.)

18 LEGAL STANDARD

19 The standard governing the issuing of a temporary restraining order is “substantially 20 identical” to the standard for issuing a preliminary injunction. See *Stuhlbarg Int’l Sales Co. v. 21 John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “The proper legal standard for 22 preliminary injunctive relief requires a party to demonstrate ‘that he is likely to succeed on the 23 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the 24 balance of equities tips in his favor, and that an injunction is in the public interest.’” *Stormans, 25 Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (quoting *Winter v. Nat. Res. Def. Council, 26 Inc.*, 555 U.S. 7, 20 (2008)); see also *Ctr. for Food Safety v. Vilsack*, 636 F.3d 1166, 1172 (9th 27 Cir. 2011) (“After *Winter*, ‘plaintiffs must establish that irreparable harm is likely, not just 28 possible, in order to obtain a preliminary injunction.’”); *Am. Trucking Ass’n, Inc. v. City of 1 Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). A plaintiff seeking a preliminary injunction must 2 make a showing on all four of these prongs. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 3 1135 (9th Cir. 2011). The Ninth Circuit has also held that “[a] preliminary injunction is 4 appropriate when a plaintiff demonstrates . . . that serious questions going to the merits were 5 raised and the balance of hardships tips sharply in the plaintiff’s favor.” *Id.* at 1134–35 (citation 6 omitted). The party seeking the injunction bears the burden of proving these elements. *Klein v. 7 City of San Clemente*, 584 F.3d 1196, 1201 (9th Cir. 2009); see also *Caribbean Marine Servs. Co. 8 v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citation omitted) (“A plaintiff must do more than 9 merely allege imminent harm sufficient to establish standing; a plaintiff must demonstrate 10 immediate threatened injury as a prerequisite to preliminary injunctive relief.”). Finally, an 11 injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the 12 plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22. 13 The likelihood of success on the merits is the most important *Winter* factor. See *Disney 14 Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017). Plaintiff bears the burden of 15 demonstrating that he is likely to succeed on the merits of his claims or, at the very least, that 16 “serious questions going to the merits were raised.” *All. for Wild Rockies*, 632 F.3d at 1131.

17 DISCUSSION

18 A. Likelihood of Success on the Merits 19 Petitioner makes several arguments, including that the denial of his adjustment of status 20 application would be unjust and arbitrary¹ and that

arresting him at his adjustment of status 21 interview violates the INA. (Doc. Nos. 7 at 11–13; 19 at 4.) The court is persuaded by the latter 22 argument and adopts the district court’s reasoning in *You, Xiu Qing v. Nielsen*, 321 F. Supp. 3d 23 451, 464–66 (S.D.N.Y. 2018), in which the district court stated: 24 The Court rejects arrest and detention practices predicated on manipulating the laws that Congress has passed. Congress did not 25 intend its carefully considered adjustment of status process for a 26 1 The court is not persuaded by this argument because “§ 1252(a)(2)(B)(i) strips district courts of 27 jurisdiction to hear a plaintiff’s APA claim when that claim challenges an agency’s individualized denial of an application for adjustment of status.” *Nakka v. United States Citizenship & Immigr.* 28 Servs., 111 F.4th 995, 1015 (9th Cir. 2024). 1 select group of aliens to become a mechanism for “gotcha” law enforcement. Nor could it, without raising serious constitutional 2 concerns. These type of bait-and-switch tactics are not only a perversion of the statute, but also likely offensive to “the concept of 3 ordered liberty.” *Rochin v. California*, 342 U.S. 165, 169, 72 S. Ct. 205, 96 L. Ed. 183 (1952) (internal quotation marks omitted). 4 Because courts “must assume that when drafting the INA, Congress 5 did not intend an absurd or manifestly unjust result,” *Lockhart v. Napolitano*, 573 F.3d 251, 260 (6th Cir. 2009), the Court concludes 6 that Congress could not have intended its silence on the interplay between adjustment and removal to permit ICE to exploit the former 7 in service of the latter. Accordingly, Petitioner has demonstrated that his arrest at USCIS’s offices and his detention pursuant to that arrest 8 likely violated the INA.

9 *Id.* at 466. Moreover, other courts have found the same in the context of individuals pursuing 10 applications for provisional waivers. *Sanchez v. McAleenan*, No. 19-cv-01728, 2024 WL 11 1256264, at *7 (D. Md. Mar. 25, 2024) (“The Court finds that by using the provisional waiver 12 process to lure non-citizen spouses of U.S. citizens to Customs and Immigration Services 13 facilities only to then arrest, detain, and eventually remove the applicants, Defendants have acted 14 arbitrarily and nullified their own regulations in violation of Due Process, the APA, and the INA 15 itself.”); *De Jesus Martinez v. Nielsen*, 341 F. Supp. 3d 400, 410 (D. N.J. 2018) (same); *Wanrong Lin v. Nielsen*, 377 F. Supp. 3d 556, 564 (D. Md. 2019) same). 17 Accordingly, the court concludes that petitioner has demonstrated a likelihood of success 18 on the merits of his claim that arresting him at his adjustment of status interview violates the INA. 19 *You, Xiu Qing*, 321 F. Supp. 3d at 469 (restoring the petitioner to the status quo ante litem by 20 ordering a “stay of removal and release from custody”). 21 B. Irreparable Harm 22 The Ninth Circuit has recognized that there are “irreparable harms imposed on anyone 23 subject to immigration detention” such as “subpar medical and psychiatric care in ICE detention 24 facilities, the economic burdens imposed on detainees and their families as a result of detention, 25 and the collateral harms to children of detainees whose parents are detained.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). As such, the court finds that in the absence of 27 release, petitioner and his spouse would suffer irreparable harm. 28 // 1 C. Balance of Equities and Public Interest 2 The consideration of the balance of equities and the public interest in an

injunction merge 3 “[w]hen the government is a party[.]” *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th

4 Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). “The public interest is in enforcing
5 all the immigration laws, including the laws governing adjustment of status.” *You, Xiu Qing*,
321 F. Supp. 3d at 469. “Respondents’ actions have likely violated those laws and, therefore, the
7 public interest also lies in preventing Respondents’ further abuse of the adjustment of status 8
scheme.” *Id.* Therefore, the court finds that the balance of equities and public interest favor 9
petitioner.

10 CONCLUSION

11 For the reasons above, 12 1. Petitioner’s motion for a temporary restraining order (Doc. No. 7)
is GRANTED 13 IN PART as follows: 14 a. Respondents are ORDERED to immediately release
petitioner from 15 respondents’ custody; 16 b. Respondents are ENJOINED AND RESTRAINED
from using the adjustment 17 of status process to re-detain petitioner, including at or near any
future 18 interview related to petitioner’s application for adjustment of status; 19 c. Petitioner’s
request for a temporary restraining order enjoining respondents 20 from transferring or removing
petitioner is DENIED as having been rendered 21 moot by this order; 22 d. Petitioner’s request for
a temporary restraining order enjoining respondents 23 from denying or interfering with the
adjudication of petitioner’s pending Form 24 I-485 application is DENIED; 25 2. The parties are
directed to meet and confer and, if possible, submit a joint 26 proposed briefing schedule and
hearing date with respect to any motion for a 27 preliminary injunction no later than fourteen (14)
days from the date of entry of 28 this order; and 1 3. Under the circumstances of this case,
petitioner will not be required to post bond 2 pursuant to Rule 65(c) of the Federal Rules of Civil
Procedure. 3 IT IS SO ORDERED. * | Dated: November 25, 2025 Dab A. 2, sxe

5 DALE A. DROZD

‘ UNITED STATES DISTRICT JUDGE

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