

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Awninderjit S. v. Kristi Noem, et al.

Awninderjit S. · No. 1:25-cv-02000-TLN-SCR · Decided December 24, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 AWNINDERJIT S., 12 Petitioner, No. 1:25-cv-02000-TLN-SCR 13 14 v.
ORDER KRISTI NOEM, et al., 15 Respondents. 16 17 18 This matter is before the Court on
Petitioner Awninderjit S.’s1 (“Petitioner”) Ex-Parte 19 Motion for a Temporary Restraining Order
 (“TRO”). (ECF No. 2.)

For the reasons set forth 20 below, Petitioner’s Motion is GRANTED. 21 I. FACTUAL AND
PROCEDURAL BACKGROUND 22 Petitioner fled India after being persecuted by the Indian
Central Government for 23 supporting an opposition party. (ECF No. 2-1 at 4.) Petitioner entered
the United States on 24 1 As recommended by the Committee on Court Administration and Case
Management of 25 the Judicial Conference of the United States, the Court omits Petitioner’s full
name, using only his first name and last initials, to protect sensitive personal information.

See Memorandum Re: 26 Privacy Concern Regarding Social Security and Immigration Opinions,
Committee on Court 27 Administration and Case Management, Judicial Conference of the United
States (May 1, 2018), https://www.uscourts.gov/sites/default/files/18-cv-1-suggestion_cacm_0.pdf.

The Clerk of Court 28 is directed to update the docket to reflect this change accordingly. 1
November 5, 2023. (ECF No. 1 ¶ 24; ECF No. 2-1 at 3.) Petitioner was detained within the 2
United States and had a credible fear interview on November 17, 2023. (ECF No. 2-3 at 4, 14.) 3
An asylum officer found Petitioner had demonstrated a credible fear of persecution or torture.

4 (Id. at 1.) During that interview, he also reported that he has never committed a crime in any 5
country. (Id. at 31.) On or about November 27, 2023, removal proceedings were initiated against 6
Petitioner. (Id.; ECF No. 2-1 at 15.) Petitioner was ordered to appear before an immigration 7
judge on December 5, 2023. (ECF No. 2-3 at 1.) Petitioner’s next immigration hearing is 8
scheduled for December 31, 2025, at Adelanto, California.

(ECF No. 2-1 at 4.) 9 On November 3, 2025, Petitioner was arrested by U.S. Immigration and
Customs 10 Enforcement (“ICE”) officials in Stockton, California. (ECF No. 1 ¶ 24.) Prior to his
arrest, 11 Petitioner had been living in Manteca, California and had built strong ties to the local
Sikh 12 community. (ECF No. 2-1 at 3–4.) He had also worked as a cashier at 7-11.

(Id. at 4.) 13 Following his detention, an immigration judge stated she was unable to consider 14 Petitioner's bond request in light of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). 15 (Id.) 16 Petitioner remains in custody at the California City Correctional Facility in California 17 City, California. (ECF No. 2-1 at 2.)

On December 24, 2025, Petitioner filed a writ of habeas 18 corpus challenging the legality of his detention. (ECF No. 1.) The same day, Petitioner filed a 19 TRO. (ECF No. 2.) 20 II. STANDARD OF LAW 21 For a TRO, courts consider whether a petitioner has established: "[1] that he is likely to 22 succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary 23 relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public 24 interest." *Winter v. Nat.*

Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). Petitioner must "make a 25 showing on all four prongs" of the Winter test. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 26 1127, 1135 (9th Cir. 2011). In evaluating a petitioner's motion, a district court may weigh 27 petitioner's showings on the Winter elements using a sliding-scale approach. *Id.* A stronger 28 showing on the balance of the hardships may support issuing a TRO even where the petitioner 1 shows that there are "serious questions on the merits... so long as the [petitioner] also shows 2 that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Id.* 3 Simply put, a petitioner must demonstrate, "that [if] serious questions going to the merits were 4 raised [then] the balance of hardships [must] tip[] sharply" in petitioner's favor in order to 5 succeed in a request for a TRO.

Id. at 1134–35. 6 III. ANALYSIS 7 A. Likelihood of Success on the Merits 8 Petitioner has established a likelihood of success on his claims that his detention violates 9 both the Immigration and Nationality Act ("INA") and the Fifth Amendment Due Process Clause. 10 The Court examines each claim in turn. 11 i. Violation of the INA 12 First, Petitioner has established a likelihood of success on his claim that he is unlawfully 13 detained under 8 U.S.C. § 1225(b)(2) ("§ 1225(b)(2)").

Section 1225(b)(2) mandates detention 14 during removal proceedings for applicants "seeking admission" and does not provide for a bond 15 hearing. Whereas 8 U.S.C. § 1226(a) ("§ 1226(a)") "provides the general process for arresting 16 and detaining [noncitizens] who are present in the United States and eligible for removal." 17 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir.

2022). Under § 1226(a), the 18 Government has broad discretion whether to release or detain the individual. *Id.* Further, § 19 1226(a) provides several layers of review for an initial custody determination. *Id.* It also confers 20 "an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by 21 counsel and to present evidence, the right to appeal, and the right to seek a new hearing when 22 circumstances materially change." *Id.* at 1202.

23 24 2 The Court finds Petitioner has met the requirements for issuing a temporary restraining order without notice. See Fed. R. Civ. P. 65(b). Petitioner has filed the requisite affidavits and 25 notified Respondents via mail on December 24, 2025 that he would be filing the motion. (ECF No. 2 at 4.) See *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2617255, 26 at *3 (E.D.

Cal. Sept. 9, 2025) (similarly finding requirements for TRO were met without notice); 27 *Pinchi v. Noem*, No. 25-cv-05632-RML, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025) (same). 28 1 Petitioner claims the text and legislative history of the INA demonstrates that 8 U.S.C. § 2 1226(a) governs his detention — not 8 U.S.C. § 1225. (ECF No. 2-1 at 5–15.)

The Court agrees. 3 As this Court has found repeatedly, Section 1225(b)(2) applies only to noncitizens “seeking 4 admission” — a category that does not include noncitizens like Petitioner who were detained 5 within the United States. See *Morales-Flores v. Lyons*, No. 1:25-CV-01640-TLN-EFB, 2025 WL 6 3552841, at *3 (E.D. Cal. Dec. 11, 2025) (explaining this Court’s reasons for taking this 7 position).

Absent a higher court order holding otherwise, this Court finds Petitioner is not an 8 applicant “seeking admission” subject to mandatory detention under § 1225(b)(2). Petitioner is 9 instead subject to § 1226(a) and is therefore entitled to the process that statute requires, including 10 a bond hearing at a minimum. Yet, Respondents have not provided any hearing to Petitioner in 11 his nearly two months of civil detention.

Accordingly, Petitioner is likely to succeed on the 12 merits of his claim that Respondents have violated the INA and improperly subjected him to 13 mandatory detention without a hearing. 14 ii. Violation of Due Process 15 Second, Petitioner has demonstrated a likelihood of success on his Fifth Amendment Due 16 Process claim.

The Fifth Amendment Due Process Clause prohibits government deprivation of 17 an individual’s life, liberty, or property without due process of law. *Hernandez v. Sessions*, 872 18 F.3d 976, 990 (9th Cir. 2017). The Due Process Clause applies to all “persons” within the 19 borders of the United States, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 20 693 (2001) (“[T]he Due Process Clause applies to all “persons” within the United States, 21 including noncitizens, whether their presence here is lawful, unlawful, temporary, or 22 permanent.”).

These due process rights extend to immigration proceedings. *Id.* at 693–94. 23 Courts examine procedural due process claims in two steps: the first asks whether there 24 exists a protected liberty interest under the Due Process Clause, and the second examines the 25 procedures necessary to ensure any deprivation of that protected liberty interest accords with the 26 Constitution.

See *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989); 27 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (“Once it is determined that due process applies, 28 the question remains what process is due.”). 1 As for the first step, the Court finds Petitioner has established a protectable liberty 2 interest. See *Rico-Tapia v. Smith*, No. CV 25-00379 SASP-KJM, 2025 WL 2950089, at *8 (D.

3 Haw. Oct. 10, 2025) (noting “[e]ven where the revocation of a person’s freedom is authorized by 4 statute, that person may retain a protected liberty interest under the Due Process Clause”). “[T]he 5 government’s decision to release an individual from custody creates ‘an implicit promise,’ upon 6 which that individual may rely, that their liberty ‘will be revoked only if [they] fail[] to live up to 7 the... conditions [of release].” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D.

Cal. July 24, 8 2025) (quoting *Morrissey*, 408 U.S. at 482) (modifications in original)). “Accordingly, a 9 noncitizen released from custody pending removal proceedings has a protected liberty interest in 10 remaining out of custody.” *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC, 2025 WL 11 2637503, at *6 (N.D. Cal. Sept. 12, 2025).

To determine whether an individual’s conditional 12 release rises to the level of a protected liberty interest, courts have “compar[ed] the specific 13 conditional release in the case before them with the liberty interest in parole as characterized by 14 *Morrissey*.” *R.D.T.M. v. Wofford*, No. 1:25-cv-01141-KES-SKO, 2025 WL 2617255, at *3 (E.D. 15 Cal. Sept 9, 2025).

16 Here, Petitioner gained a liberty interest in his continued freedom after he was released 17 from custody. (ECF No. 2-1 at 17.) Under *Morrissey*, this release implied a promise that he 18 would not be re-detained, during the pendency of his immigration proceedings, if he abided by 19 the terms of his release.

Moreover, for approximately two years, Petitioner built a life in the 20 United States. (*Id.*) As this Court has found previously, along with many other courts in this 21 district when confronted with similar circumstances, Petitioner has a clear interest in his 22 continued freedom. See, e.g., *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) 23 (noting the Government’s actions in allowing petitioner to remain in the community for over five 24 years strengthened petitioner’s liberty interest).

25 As to the second step — what procedures or process is due — the Court considers three 26 factors: (1) “the private interest that will be affected by the official action;” (2) “the risk of an 27 erroneous deprivation of such interest through the procedures used, and the probable value, if any, 28 of additional or substitute procedural safeguards;” and (3) “the Government’s interest, including 1 the function involved and the fiscal and administrative burdens that the additional or

substitute 2 procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

As set 3 forth below, the Court finds Petitioner has established his due process rights were likely violated. 4 First, Petitioner has a substantial private interest in remaining free from detention. As 5 discussed above, Petitioner was out of custody for approximately two years and had built a life 6 and community in California. Despite that, Petitioner has now been detained for almost two 7 months without being afforded a bond hearing.

Accordingly, this factor weighs in favor of 8 finding Petitioner’s private interest has been impacted by his detention. See *Manzanarez v. 9 Bondi*, No. 1:25-CV-01536-DC-CKD (HC), 2025 WL 3247258, at *4 (E.D. Cal. Nov. 20, 2025) 10 (finding similarly). 11 Second, the risk of erroneous deprivation is considerable given Petitioner has not received 12 any bond hearing despite nearly two months in custody. “Civil immigration detention, which is 13 nonpunitive in purpose and effect is justified when a noncitizen presents a risk of flight or danger 14 to the community.” *R.D.T.M.*, 2025 WL 2617255, at *4 (internal quotation and citation omitted).

15 Petitioner has represented he has never committed a crime in any country, which an asylum 16 officer found credible, and the record does not show Petitioner has been found to present a flight 17 risk or danger to the community. (ECF No. 2-3 at 31.) Given this, the Court finds there is a 18 serious likelihood Petitioner will be erroneously deprived of his liberty interest.

Moreover, 19 without any procedural safeguards to determine whether his detention was justifiable, the 20 probative value of additional procedural safeguards is high. *R.D.T.M.*, 2025 WL 2617255, at *4. 21 Finally, the Government’s interest is low, and the effort and cost required to provide 22 Petitioner with procedural safeguards are minimal. See *Garcia v. Andrews*, No. 2:25-CV-01884- 23 TLN-SCR, 2025 WL 1927596, at *5 (E.D.

Cal. July 14, 2025). Petitioner claims that the 24 Respondents’ own regulations require notice and a pre-deprivation hearing, which they did not 25 provide. (ECF No. 2-1 at 19.) Indeed, it would be less of a fiscal and administrative burden for 26 the Government to return Petitioner home to await a determination on his immigration 27 proceedings than to continue to detain him.

28 On balance, the Court finds the *Mathews* factors demonstrate Petitioner is entitled to due 1 process: a hearing to determine whether detention is warranted. Accordingly, with respect to his 2 due process claim, Petitioner has shown he is likely to succeed on the merits. 3 B. Irreparable Harm 4 Petitioner has also established he will suffer irreparable harm in the absence of a TRO.

5 The Ninth Circuit recognizes “irreparable harms imposed on anyone subject to immigration 6 detention,” including “the economic burdens imposed on detainees and their families as a result 7 of detention[.]” *Hernandez*, 872 F.3d at 995. Such harm is present here. Petitioner has been 8 detained for almost two months without a bond hearing and “[i]t is well established that the 9

deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. 10 Arpaio*, 695 F.3d 990, 1002 (9th Cir.

2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). 11 C. Balance of Equities and Public Interest 12 As to the final two Winter factors, “[w]hen the government is a party, the analysis of the 13 balance of the hardships and the public interest merge.” *Nat’l Urban League v. Ross*, 484 F. 14 Supp. 3d 802, 807 (N.D. Cal. 2020) (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 15 (9th Cir.

2014)). The Court finds these factors also favor Petitioner. First, the balance of equities 16 tips decidedly in Petitioner’s favor as the Government “cannot reasonably assert that it is harmed 17 in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. U.S. 18 Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983).

Second, “it is always in the public 19 interest to prevent the violation of a party’s constitutional rights.” *Melendres*, 695 F.3d at 1002. 20 Moreover, “the Ninth Circuit has recognized that the costs to the public of immigration detention 21 are staggering.” *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 22 14, 2025) (internal citation omitted).

23 In sum, these last two factors weigh in Petitioner’s favor. Therefore, the Court GRANTS 24 Petitioner’s Motion for a TRO. (ECF No. 2.) 25 IV. CONCLUSION 26 Accordingly, IT IS HEREBY ORDERED: 27 1. Petitioner’s Motion for a Temporary Restraining Order (ECF No. 2) is GRANTED. 28 2. Respondents must IMMEDIATELY RELEASE Petitioner Awninderjit S. from custody.

1 Respondents shall not impose any additional restrictions on him, unless such restrictions 2 are determined to be necessary at a future pre-deprivation/custody hearing. 3 3. Respondents are ENJOINED AND RESTRAINED from re-arresting or re-detaining 4 Petitioner absent compliance with constitutional protections, including seven-days’ notice 5 and a pre-deprivation/custody hearing before a neutral decisionmaker, where the 6 Government shall bear the burden of proving by clear and convincing evidence that 7 Petitioner poses a danger to the community or a flight risk, and Petitioner shall be allowed 8 to have his counsel present.

9 4. Respondents are ORDERED TO SHOW CAUSE why this Court should not issue a 10 preliminary injunction continuing this order. Respondents shall file responsive papers by 11 Wednesday, December 31, 2025. Petitioner may file a reply, if any, by Tuesday, 12 January 6, 2026.

The parties shall indicate in their briefing whether they waive a 13 hearing. Fed. R. Civ. P. 65(b) (3). The Court will consider any stipulation and proposed 14 order filed by the parties if they agree to a less demanding briefing schedule. 15 5. Petitioner is ORDERED to immediately serve

this Temporary Restraining Order and 16 Order to Show Cause on Respondents at usacae.ecf2241-imm@usdoj.gov.

Petitioner 17 shall file proof of such service no later than 10 a.m. on December 25, 2025. 18 6. Respondents are hereby notified of their right to apply to the Court for modification or 19 dissolution of the Temporary Restraining Order on two days' notice to Petitioner. Fed. R. 20 Civ. P. 65(b)(4). 21 7.

The bond requirement of Federal Rule of Civil Procedure 65(c) is waived. Courts 22 regularly waive security in cases like this one. See Diaz v. Brewer, 656 F.3d 1008, 1015 23 (9th Cir. 2011). 24 8. The Clerk of Court is DIRECTED to update the docket to only list Petitioner's first name 25 and last initial. 26 // 27 // 28 // 1 IT IS SO ORDERED. 2 || Date: December 24, 2025 3 4 TROY L. NUNLEY; CHIEF UNITED STATES DISTRICT JUDGE 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28