

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

Carlos Duban Lainez Osejo v. Sergio Albarran, et al.

No. 1:25-cv-01846-DJC-JDP · No. No. 1:25-cv-01846-DJC-JDP · Decided December 30, 2025

OPINION

e1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CARLOS DUBAN LAINEZ OSEJO, No. 1:25-cv-01846-DJC-JDP 12
Petitioner, 13 v. ORDER 14 SERGIO ALBARRAN, et al., 15 Respondents. 16 17 Petitioner is a
noncitizen from Nicaragua who entered the United States in 18 2021.

In December of 2025, Petitioner was detained at his annual check-in with 19 United States
Immigration and Customs Enforcement (“ICE”). Petitioner filed a 20 Petition for a Writ of Habeas
Corpus along with a Motion for Temporary Restraining 21 Order. (ECF Nos. 1, 3.) 22 Because the
claim for relief in Petitioner’s Motion is not ripe for review, 23 Petitioner has not established
likelihood of success on the merits.

Accordingly, the 24 Court denies Petitioner’s Motion for Temporary Restraining Order and sets a
further 25 briefing schedule on a preliminary injunction as well as the merits of the Petition. 26
BACKGROUND 27 Petitioner is a noncitizen from Nicaragua who entered the United States in
2021 28 and was detained shortly thereafter. (Mot. (ECF No 3) at ¶¶ 10, 12.)

Petitioner was e1 then released from custody and filed an application for asylum, withholding of 2
removal, and protection under the Convention Against Torture. (Id. ¶¶ 12–13.) On 3 December 11,
2025, Petitioner appeared for his annual check-in with ICE. (Id. ¶ 15.) 4 Upon arrival, an ICE
officer arrested Petitioner, purportedly because he had been a 5 day late for his 2023 check-in.

(Id. ¶¶ 15–16.) Petitioner is currently detained at the 6 California City Correctional Facility. (Id. ¶
17.) Petitioner has never been ordered 7 removed by an immigration judge. (Id. ¶ 19.) 8 Petitioner
filed a Petition for a Writ of Habeas Corpus and a Motion for 9 Temporary Restraining Order.
(ECF Nos. 1, 3.) Briefing on the Motion for Temporary 10 Restraining Order is now complete.

(Mot. (ECF No. 3); Opp’n (ECF No. 9).) The Court 11 ordered this matter submitted without oral
argument. (See ECF No. 4.) 12 LEGAL STANDARD 13 The standards for issuing a temporary
restraining order and a preliminary 14 injunction are “substantially identical.” See *Stuhlberg Int’l
Sales Co. v. John D. Brush & 15 Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

To obtain preliminary injunctive relief, 16 Petitioner must show (1) likelihood of success on the
merits; (2) likelihood of 17 irreparable harm in the absence of preliminary relief; (3) that the
balance of equities 18 tips in his favor; and (4) that an injun ction is in the public interest. Winter

v. Nat. Res. 19 Def. Council, Inc., 555 U.S. 7, 20 (2008). “[I]f a plaintiff can only show that there are 20 ‘serious questions going to the merits’ — a lesser showing than likelihood of success 21 on the merits — then a preliminary injunction may still issue if the ‘balance of hardships 22 tips sharply in the plaintiff’s favor,’ and the other two Winter factors are satisfied.” All.

23 for the Wild Rockies v. Pena, 865 F.3d 1211, 1217 (9th Cir. 2017) (citations omitted). 24 The Ninth Circuit employs a sliding scale approach to the Winter factors, under which 25 a strong showing on the balance of hardships may compensate for a lesser showing of 26 likelihood of success. See Where Do We Go Berkeley v. California Dep’t of Transp., 32 27 F.4th 852, 859 (9th Cir.

2022). 28 e1 DISCUSSION 2 Petitioner has not established a likelihood of success on the merits at this stage 3 of the proceedings. Though the Petition seeks additional relief, Petitioner’s Motion 4 solely asks the Court to enjoin Respondents from removing Petitioner to a third 5 country without first providing Petitioner notice and an opportunity to present 6 evidence in support of his application for asylum and a defense to claims of 7 removability.

(Mot. at 7.) 8 However, Petitioner has not shown Respondents are imminently likely to 9 remove him to a third country such that his claims about the process attendant to 10 removal are ripe for review. A habeas petition “cannot be used to seek relief for 11 claims that are speculative or otherwise not ripe for review.” Van Huynh v. Bondi, No. 12 2:25-cv-02093-KKE, 2025 WL 3534210, at *5 (W.D.

Wash. Dec. 10, 2025) (citing 13 Thomas v. Union Carbide Agr. Prods. Co., 473 U.S. 568, 580 (1985). A “claim is not 14 ripe for adjudication if it rests upon contingent future events that may not occur as 15 anticipated, or indeed may not occur at all.” Alcoa, Inc. v. Bonneville Power Admin., 16 698 F.3d 774, 793 (9th Cir. 2012) (quoting Texas v. United States, 523 U.S. 296, 300 17 (1998)) (cleaned up).

Petitioner solely asserts that, on “information and belief, 18 Respondents may remove Petitione r to a third country or relocate him to another 19 judicial district or state without providing a meaningful opportunity to be heard on his 20 claim for relief.” (Mot. ¶ 9.) Petitioner also states that he has never been ordered 21 removed by an immigration judge.

(Id. ¶ 19.) Absent at least an order of removal, 22 Petitioners’ claims concerning his rights to notice and an opportunity to be heard prior 23 to removal are not ripe for adjudication. 24 The cases Petitioner cites do not show Petitioner is entitled to this relief at this 25 stage. Each of Petitioner’s cited cases enjoined respondents from removing 26 petitioners to third countries without certain procedural protections only after 27 petitioners had been ordered removed by an immigration judge.

See, e.g., *J.R. v. 28 e1 Bostock*, 796 F. Supp. 3d 684, 690 (W.D. Wash. 2025). As Petitioner here lacks a 2 removal order (see Mot. ¶ 19), these cases are inapplicable. 3 Accordingly, Petitioner has not yet established he is likely to succeed on or 4 serious questions going to the merits of his claims and, therefore, is not entitled to 5 preliminary relief. See *Apache Stronghold v. United States*, 101 F.4th 1036, 1049 (9th 6 Cir.

2024), cert. denied, 145 S. Ct. 1480 (2025), reh'g denied, No. 24-291 (U.S. Oct. 6, 7 2025) (explaining that the “first factor—likeli hood of success on the merits—is the most 8 important, and when a plaintiff has failed to show the likelihood of success on the 9 merits, we need not consider the remaining three factors” (cleaned up)).1 10 CONCLUSION 11 For the reasons stated above, IT IS HEREBY ORDERED that: 12 1.

Petitioner’s Motion for Temporary Restraining Order (ECF No. 3) is DENIED. 13 2. As the Court intends to rule directly on the Petition for Writ of Habeas 14 Corpus (ECF No. 1) and Petitioner’s request for a preliminary injunction,2 15 Petitioner may file a single brief in support of both on or before January 13, 16 2026.

On or before January 27, 2026, Respondents may file a single 17 opposition to preliminary injunction and answer to the petition. On or 18 before February 3, 2026, Petitioner shall file a single reply, if any, to 19 Respondents’ opposition and traverse.

The Petition and Preliminary 20 Injunction are not currently set for a hearing, but the Court may 21 subsequently order one if it determines a hearing is necessary. 22 3. Respondents’ opposition shall provide the Court with copies of all 23 referenced/relevant portions of petitioner's A-File, in addition to all of the 24 25 1 The Court declines to address Respondents’ Motion to Dismiss (ECF No. 9) as it fails to follow the Local Rules governing filing of motions.

See L.R. 230(b). 26 2 See Fed. R. Civ. P. 65(a)(2) (“Before or after beginning the hearing on a motion for a preliminary 27 injunction, the court may advance the trial on the merits and consolidate it with the hearing.”); see also 28 U.S.C. § 2243 (“The court shall summarily hear and determine the facts, and dispose of [a habeas 28 petition] as law and justice require.”). et following documents if they were provided to petitioner: (1) Form |-862, 2 Notice to Appear; (2) Form |-220A, Order of Release on Recognizance; (3) 3 Form |-286, Notice of Custody Determination; (4) any document authorizing 4 parole; and (5) any and all available records documenting and/or detailing 5 the nature of any alleged violations of supervised release.

6 4. Respondents’ Motion to Dismiss (ECF No. 9) is DENIED WITHOUT 7 PREJUDICE to refilling a properly noticed motion in compliance with the 8 Local Rules. 9 10 IT IS SO ORDERED. 11 | Dated: _December 30, 2025 “Dane A CoD tto— Hon. Daniel alabretta 12 UNITED STATES DISTRICT JUDGE 13 14 13. | DICT - Osejo25cv01846.tro 16 17 18 19 20 21 22 23 24 25 26 27 28

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