

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Cesar Ulises Perez Salmeron v. Pam Bondi, et al.

Case No. 1:25-cv-01067-SAB-HC (E.D. Cal. Oct. 22, 2025) · No. 1:25-cv-01067-SAB-HC · Decided October 22, 2025

SUMMARY

The document is a Findings and Recommendation and accompanying order from the United States District Court for the Eastern District of California in a federal immigration detainee’s 28 U.S.C. § 2241 habeas action. The magistrate judge recommends dismissal of the petitioner’s asylum and Convention Against Torture claims because challenges to removal must proceed through the petition-for-review process, and recommends denial of the requested temporary restraining order. The court also directs random assignment to a district judge and updates the petitioner’s address.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 22, 2025
DOCKET	1:25-cv-01067-SAB-HC
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner, a federal immigration detainee proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 and sought an ex parte temporary restraining order for release from detention and a stay of removal. The magistrate judge issued findings and a recommendation that the habeas petition be dismissed and the TRO application denied, subject to review by an assigned district judge.
STANDARD OF REVIEW	Under Rule 4, a habeas petition may be dismissed at preliminary review if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. For temporary injunctive relief, the applicant must establish a likelihood of success on the merits, likely irreparable harm, that the balance of equities favors relief, and that an injunction is in the public interest.

PRECEDENTIAL VALUE	Nonprecedential findings and recommendation; no reporter citation or precedential designation appears in the source.
PARTIES	Cesar Ulises Perez Salmeron v. Pam Bondi, et al.

TOPICS

federal habeas corpus immigration detention asylum removal proceedings injunctions

PRACTICE AREAS

Immigration Federal habeas corpus Immigration detention Removal proceedings Injunctive relief

QUESTIONS PRESENTED

1. Whether the district court could review petitioner's asylum and Convention Against Torture claims in a § 2241 habeas petition or whether those claims had to be brought through a petition for review in the court of appeals.
2. Whether petitioner was entitled to a temporary restraining order requiring release from detention and staying removal.

HOLDINGS

1. Claims seeking asylum and withholding of removal under the Convention Against Torture are bound up in and an inextricable part of the removal process and therefore must be channeled through the petition-for-review process rather than litigated through a district-court habeas petition.
2. Petitioner was not entitled to a temporary restraining order because he failed to establish a likelihood of success on the merits.

KEY QUOTATIONS

“The exclusive means to challenge an order of removal is the petition for review process.” (Opinion at 2)

“Accordingly, claims that are independent of or collateral to the removal process do not fall within the scope of § 1252(b)(9).” (Opinion at 3)

“As Petitioner’s claims “are bound up in and an inextricable part of the administrative process,” they fall within the scope of § 1252(b)(9) and “must be channeled through the PFR process.”” (Opinion at 3-4)

“Accordingly, Petitioner has not established that he is likely to succeed on the merits and thus, the application for a TRO should be denied.” (Opinion at 5)

FACTUAL BACKGROUND

Petitioner was detained by federal immigration authorities and sought asylum and withholding of removal under the Convention Against Torture. He also sought release from detention and a stay of removal through a temporary restraining order. The petition did not provide sufficient information for the court to determine

whether his detention was unlawful, and the court found no evidence that the government was taking sufficient practical steps to remove him from the United States.

PROCEDURAL HISTORY

Petitioner filed the action on August 25, 2025. The court conducted preliminary review under Rule 4 of the Rules Governing Section 2254 Cases, applied to § 2241 petitions through Rule 1(b), and recommended dismissal before requiring a response from respondents. The clerk was directed to randomly assign a district judge, and petitioner was given thirty days to object under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Martinez v. Napolitano, 704 F.3d 620, 622 (9th Cir. 2012)
- Singh v. Gonzales, 499 F.3d 969, 976 (9th Cir. 2007)
- J.E.F.M. v. Lynch, 837 F.3d 1026, 1032 (9th Cir. 2016)
- Nadarajah v. Gonzales, 443 F.3d 1069, 1075-76 (9th Cir. 2006)
- Stuhlberg Intern. Sales Co., Inc. v. John D. Brushy and Co., Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2001)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008)
- Hernandez v. Lyons, 2025 WL 20019969, 2025 U.S. Dist. LEXIS 116789 (C.D. Cal. June 18, 2025)
- Demore v. Kim
- Lopez v. Garland, 631 F. Supp. 3d 870, 877, 879 (E.D. Cal. 2022)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

Bondi

PER CURIAM.

1 2 3 4 5 6 7 8

UNITED STATES DISTRICT COURT

9

EASTERN DISTRICT OF CALIFORNIA

10 11 CESAR ULISES PEREZ SALMERON, Case No. 1:25-cv-01067-SAB-HC 12 Petitioner,

FINDINGS AND RECOMMENDATION

RECOMMENDING DISMISSAL OF

13 v. PETITION FOR WRIT OF HABEAS

CORPUS AND DENIAL OF APPLICATION

14 PAM BONDI, et al., FOR TEMPORARY RESTRAINING

ORDER

15 Respondents.

ORDER DIRECTING CLERK OF COURT

16 TO RANDOMLY ASSIGN DISTRICT

JUDGE AND UPDATE PETITIONER'S

17 ADDRESS

18 Petitioner is a federal immigration detainee proceeding pro se with a petition for writ of 19 habeas corpus pursuant to 28 U.S.C. § 2241. 20 On August 25, 2025, Petitioner filed the instant federal petition for writ of habeas corpus, 21 claiming asylum and requesting withholding of removal under the Convention Against Torture 22 (“CAT”). In addition, Petitioner seeks an ex parte temporary restraining order (“TRO”) for 23 release from detention and stay of removal. (ECF No. 1 at 5.1) 24 Rule 4 of the Rules Governing Section 2254 Cases² requires preliminary review of a 25 habeas petition and allows a district court to dismiss a petition before the respondent is ordered 26 1 Page numbers refer to the ECF page numbers stamped at the top of the page. 27 2 The Rules Governing Section 2254 Cases apply to § 2241 habeas petitions. See Rule 1(b) of the Rules Governing Section 2254 Cases (“The district court may apply any or all of these rules to a habeas corpus petition not covered 1 to file a response, if it “plainly appears from the petition and any attached exhibits that the 2 petitioner is not entitled to relief in the district court.” Rule 4, Rules Governing Section 2254 3 Cases in the United States District Courts, 28 U.S.C. foll. § 2254. 4 A. Asylum and CAT Claims 5 The INA [Immigration and Nationality Act] contains a provision entitled “Exclusive means of review,” which reads, in relevant part: 6 Notwithstanding any other provision of law (statutory or 7 nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, 8 a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means 9 for judicial review of an order of removal entered or issued under any provision of this chapter, except as provided in subsection (e) 10 of this section. 11 8 U.S.C. § 1252(a)(5) (emphasis added). The language of the statute is clear. The exclusive means to challenge an order of removal is the petition for review 12 process. 13 *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012). “The INA also contains a ‘zipper 14 clause’ that consolidates all ‘questions of law and fact ... arising from any action taken or 15 proceeding brought to remove an alien’ into a petition for review.” *Id.* (quoting 8 U.S.C. 16 § 1252(b)(9)). “This statutory scheme was designed to ‘limit all aliens to one bite of the apple 17 with regard to challenging an order of removal.’” *Martinez*, 704 F.3d at 622 (quoting *Singh v. 18 Gonzales*, 499 F.3d 969, 976 (9th Cir. 2007)). 19 Section “1252(b)(9) has built-in limits. By channeling only those questions ‘arising from 20 any action taken or proceeding brought to remove an alien,’ the statute excludes from the PFR 21 [petition for review] process any claim that does not arise from removal proceedings.” *J.E.F.M. 22 v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016). “Accordingly, claims that are independent of or 23 collateral to the removal process do not fall within the scope of § 1252(b)(9).” *Id.* Thus, “an 24 immigrant

c[an] challenge his [prolonged] administrative detention by filing a petition for a writ of habeas corpus in district court, notwithstanding § 1252(b)(9).” *Id.* (citing *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006)). On the other hand, claims that “are bound up in and an inextricable part of the administrative process” fall within the scope of § 1252(b)(9). Here, Petitioner is claiming asylum and requesting withholding of removal under CAT. 2 (ECF No. 1 at 5.) As Petitioner’s claims “are bound up in and an inextricable part of the administrative process,” they fall within the scope of § 1252(b)(9) and “must be channeled through the PFR process.” *J.E.F.M.*, 837 F.3d at 1032. Accordingly, Petitioner’s asylum and CAT claims should be dismissed. 6 B. Temporary Restraining Order Petitioner also seeks a TRO for release from detention and stay of removal. (ECF No. 1 at 8 5.) The standards governing the issuance of temporary restraining orders are “substantially identical” to those governing the issuance of preliminary injunctions. *Stuhlbarg Intern. Sales Co., Inc. v. John D. Brushy and Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “A plaintiff seeking a preliminary injunction must establish 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. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). 15 In support for his TRO request, Petitioner cites to *Hernandez v. Lyons*, 2025 WL 16 20019969, 2025 U.S. Dist. LEXIS 116789 (C.D. Cal. June 18, 2025). However, *Hernandez* is 17 distinguishable from the instant matter and does not provide support for Petitioner’s release and 18 stay of removal. In *Hernandez*, the petitioner had been released on bond for approximately two 19 and a half years, had been granted protection against removal under CAT, and was arrested and 20 detained by U.S. Immigration and Customs Enforcement (“ICE”) when he attended a regular 21 Intensive Supervision Appearance Program (“ISAP”) check-in. *Hernandez* was transferred from 22 an ICE facility in Santa Ana, California to an ICE facility in El Paso, Texas, and there was 23 “evidence before the court indicat[ing] that the government is taking sufficient practical steps to 24 remove Petitioner from the United States.” *Id.* at *2, 4–6, 12. In contrast, here, there is no 25 evidence before this Court indicating that the government is taking sufficient practical steps to 26 remove Petitioner from the United States. Further, Petitioner has not provided sufficient 27 information for the Court to determine whether his detention is unlawful. See *Demore v. Kim*, 1 permissible part of that process.”); *Lopez v. Garland*, 631 F. Supp. 3d 870, 877, 879 (E.D. Cal. 2 2022) (“find[ing] that unreasonably prolonged mandatory detention under 8 U.S.C. § 1226(c) 3 without an individualized bond hearing violates due process” and considering “the total length of 4 detention to date, the likely duration of future detention, and the delays in the removal 5 proceedings caused by the petitioner and the government” to “determine whether § 1226(c) 6 detention has become unreasonable”). Accordingly, Petitioner has not established that he is 7 likely to succeed on the merits and thus, the application for a TRO should be denied. 8 III.

9 RECOMMENDATION & ORDER

10 Based on the foregoing, the Court HEREBY RECOMMENDS that the petition for writ of 11

habeas corpus be DISMISSED and the application for TRO be DENIED. 12 Further, the Clerk of Court is DIRECTED to: 13 1. Randomly assign this action to a District Judge; and 14 2. Update Petitioner's address to: 15 A-Number 218147844 ERO El Paso Camp East Montana 16 6920 Digital Road El Paso, TX 799363 17 18 This Findings and Recommendation is submitted to the assigned United States District 19 Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b) (1)(B) and Rule 304 of the Local 20 Rules of Practice for the United States District Court, Eastern District of California. Within 21 THIRTY (30) days after service of the Findings and Recommendation, Petitioner may file 22 written objections with the Court, limited to fifteen (15) pages in length, including any 23 24 3 Petitioner was previously incarcerated at Avenal State Prison, and that is the institutional address Petitioner provided on the petition. (ECF No. 1 at 1.) However, the petition also states that Petitioner is "done with [his] state- 25 time" and is "in federal custody with United States Immigration" but does not provide any information regarding the immigration detention facility. (Id. at 5.) According to the ICE Online Detainee Locator System, Petitioner is currently at the ERO El Paso Camp East Montana. See ICE Online Detainee Locator System, 26 <https://locator.ice.gov/odls/#/search> (results for "Cesar Perez Salmeron") (last visited Oc. 21, 2025). It is Petitioner's responsibility to keep the Court apprised of his current address at all times. Local Rule 183(b). Absent notice of a 27 party's change of address, service of documents at the prior address of the party is fully effective. Local Rule 182(f). However, in the interest of justice, the Court will make an exception and update Petitioner's address so that 1 | exhibits. Such a document should be captioned "Objections to Magistrate Judge's Findings and 2 | Recommendation." The assigned United States District Court Judge will then review the 3 | Magistrate Judge's ruling pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that 4 | failure to file objections within the specified time may waive the right to appeal the District 5 | Court's order. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). 7

8 IT IS SO ORDERED. FA. Be

9 | Dated: _ October 22, 2025

STANLEY A. BOONE

10 United States Magistrate Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28