

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Juan Edelmar Alva Alva v. Polly Kaiser, et al.

No. 25-cv-06676 (EKL) · No. 25-cv-06676 (EKL) · Decided August 7, 2025

SUMMARY

The United States District Court for the Northern District of California granted Petitioner Juan Edelmar Alva Alva’s ex parte motion for a temporary restraining order. The court ordered his immediate release, prohibited re-detention without notice and a pre-deprivation hearing, and enjoined his removal from the United States. The order required Respondents to show cause why a preliminary injunction should not issue and remained effective until August 21, 2025, at 9:00 p.m.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Eumi K. Lee
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 7, 2025
DOCKET	25-cv-06676 (EKL)
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a habeas petition and an ex parte motion for a temporary restraining order challenging his immigration detention and seeking release, a pre-detention bond hearing, and an injunction against transfer or removal.
STANDARD OF REVIEW	A temporary restraining order is evaluated under the same standard as a preliminary injunction: likelihood of success on the merits, likelihood of irreparable harm, balance of equities, and the public interest. Where the government is the opposing party, the equities and public-interest factors merge. A TRO without notice additionally requires specific facts showing that immediate and irreparable injury will occur before the adverse party can be heard.
PRECEDENTIAL VALUE	nonprecedential interlocutory district-court order
PARTIES	Juan Edelmar Alva Alva v. Polly Kaiser, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office, Todd Lyons, Acting Director of United States Immigration and

TOPICS

immigration detention injunctions procedural due process due process removal proceedings

PRACTICE AREAS

immigration detention immigration civil procedure constitutional law injunctive relief

QUESTIONS PRESENTED

1. Whether petitioner satisfied the requirements for an ex parte temporary restraining order.
2. Whether petitioner demonstrated a likelihood of success on a procedural due process claim based on detention without a prior bond hearing.
3. Whether immediate release and an injunction against re-detention without notice and a pre-deprivation hearing were necessary to prevent irreparable harm and preserve the status quo.
4. Whether the court should require security under Federal Rule of Civil Procedure 65(c).

HOLDINGS

1. The requirements for issuing a temporary restraining order without notice under Federal Rule of Civil Procedure 65(b)(1) were satisfied because petitioner submitted specific facts showing that immediate and irreparable injury could occur before respondents could be heard.
2. Petitioner demonstrated a likelihood of success on his claim that his ongoing immigration detention violated procedural due process because he was entitled to a bond hearing before arrest or detention.
3. Petitioner established irreparable harm, and the balance of equities and public interest favored temporary relief, because continued detention likely implicated constitutional liberty rights while the government faced only minimal harm from a short delay and constitutionally compliant procedures.
4. The court ordered respondents to immediately release petitioner and enjoined them from re-detaining him without notice and a pre-deprivation hearing before a neutral decisionmaker or from removing him from the United States while the TRO remained in effect.
5. No security was required because the court found no realistic likelihood of harm to respondents from the injunction and exercised its discretion to waive the bond requirement.

KEY QUOTATIONS

“The standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction.” (Legal standard)

“Respondents are ORDERED to immediately release Petitioner from Respondents’ custody and ENJOINED AND RESTRAINED from re-detaining Petitioner without notice and a pre-deprivation hearing before a

neutral decisionmaker, and from removing him from the United States.” (Order)

“The Due Process Clause entitles Petitioner to a bond hearing before an immigration judge prior to any arrest or detention.” (Discussion)

FACTUAL BACKGROUND

Petitioner, a Guatemalan national who entered the United States in 2018, had been released on an order of supervision, complied with repeated ICE check-ins, obtained employment authorization, and had no criminal history. He requested a reasonable-fear interview in connection with potential relief from removal and attended the interview on August 6, 2025. After an asylum officer found no reasonable fear, immigration authorities detained him and indicated that he might soon be transferred to another detention center. The court found that his detention without a pre-detention hearing was likely unconstitutional and that immediate release was necessary to preserve the status quo.

PROCEDURAL HISTORY

Petitioner was detained by immigration authorities after attending a reasonable-fear interview and filed the habeas petition and TRO motion on August 7, 2025. The district court granted the TRO, ordered his immediate release, prohibited re-detention without notice and a pre-deprivation hearing before a neutral decisionmaker, prohibited removal, waived any bond requirement, and set an order-to-show-cause hearing concerning a preliminary injunction.

DISPOSITION

other

REMAND INSTRUCTIONS

Respondents were ordered to release petitioner immediately, file a status report confirming release, respond to the motion by August 14, 2025, and appear at an August 21, 2025 order-to-show-cause hearing regarding why a preliminary injunction should not issue. The TRO remained in effect until August 21, 2025, at 9:00 p.m.

CASES CITED

- *Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017)
- *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20, 22 (2008)
- *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014)
- *Nken v. Holder*, 556 U.S. 418, 435 (2009)
- *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2019)
- *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974)
- *Pablo Sequen v. Kaiser*, No. 25-cv-06487-PCP, 2025 WL 2203419, at *2-*3 (N.D. Cal. Aug. 1, 2025)
- *Hernandez v. Sessions*, 872 F.3d 976, 994-96 (9th Cir. 2017)

- *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
- *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005)
- *Jorge M. F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021)
- *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005)
- *Diaz v. Kaiser*, No. 3:25-cv-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025)
- *Zepeda v. U.S. Immigration & Naturalization Service*, 753 F.2d 719, 727 (9th Cir. 1985)
- *Singh v. Andrews*, No. 25-cv-00801, 2025 WL 1918679, at *9-*10 (E.D. Cal. July 11, 2025)
- *Doe v. Noem*, No. 25-cv-00633, 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025)
- *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)
- *Kuzmenko v. Phillips*, No. 25-cv-00663, 2025 WL 779743, at *2 (E.D. Cal. Mar. 10, 2025)
- *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025), converted to preliminary injunction at ___ F. Supp. 3d ___, 2025 WL 2084921 (N.D. Cal. July 24, 2025)
- *Doe v. Becerra*, No. 2:25-cv-647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 1, 2025)
- *Garcia v. Bondi*, No. 25-cv-5070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025)
- *Enamorado v. Kaiser*, No. 25-cv-4072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025)
- *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003)

OPINION

Alva Alva v. Kaiser

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 JUAN EDELMAR ALVA ALVA, Case No. 25-cv-06676 (EKL) 8 Petitioner,

ORDER GRANTING TEMPORARY

9 v. RESTRAINING ORDER

10 POLLY KAISER, Acting Field Office Re: Dkt. No. 2 Director of the San Francisco
 Immigration 11 and Customs Enforcement Office; TODD LYONS, Acting Director of United
 States 12 I K m R m IS ig T r I a t N io O n E a M nd , S C e u c s r t e o t m a r s y E o n f f t o h r e
 c e U m n e i t n e t d ; 13 States Department of Homeland Security, PAMELA BONDI, Attorney
 General of the 14 United States, acting in their official capacities, 15 Respondents. 16 17 Before
 the Court is Petitioner's Ex Parte Motion for Temporary Restraining Order. TRO 18 Mot., ECF
 No. 2. Petitioner simultaneously filed a Petition for Writ of Habeas Corpus and Ex 19 Parte
 Motion for Temporary Restraining Order against Respondents Acting Field Office Director 20
 Polly Kaiser, Acting Director of Immigration and Customs Enforcement Todd M. Lyons, 21
 Secretary of the Department of Homeland Security Kristi Noem, and United States Attorney 22
 General Pamela Bondi on August 7, 2025. Petitioner asks this Court to (1) order his immediate 23
 release from Respondents' custody pending these proceedings, and (2) enjoin Respondents from

24 transferring him out of this District or deporting him during the pendency of the underlying 25 proceedings. See Notice of Mot., ECF No. 2. For the foregoing reasons, the TRO is GRANTED 26 as modified below. 27

1 I. BACKGROUND

2 According to the record before the Court, Petitioner is a 44-year-old husband and father 3 who arrived in the United States from Guatemala in 2018. Petition for Writ of Habeas Corpus ¶ 1, 4 ECF No. 1 (“Petition”). Petitioner fled Guatemala “after he was threatened multiple times, 5 including with a firearm and a machete, by a man who wanted to continue having his way with 6 [Petitioner’s] young daughter.” Id. ¶ 52. After Petitioner and his daughter fled, “that man burned 7 down [Petitioner’s] family home, forcing [Petitioner’s] wife and son to flee as well.” Id. 8 When Petitioner entered the United States, he was “processed by Border Patrol and ICE 9 and after a brief detention, he was released on an order of supervision, with which he always 10 complied.” Id. ¶ 53. Since his release in 2018, Petitioner was instructed to “check in at the San 11 Francisco ICE office around 10 different times. He did as instructed and has fully complied with 12 supervision requirements.” Id. ¶ 54. “Based on his order of supervision, he was granted 13 employment authorization and has been working since then. He has no criminal history.” Id. 14 ¶ 55. Petitioner “has never been determined to be a flight risk nor a danger to the community.” 15 Id. ¶ 59.

16 In 2023, Petitioner requested a reasonable fear interview (“RFI”) so Petitioner could start 17 his claim for relief from removal. Id. ¶ 56. On August 6, 2025, Petitioner and his counsel 18 attended Petitioner’s scheduled RFI at the ICE Enforcement and Removal Operations offices at 19 630 Sansome Street in San Francisco, California. During the RFI, petitioner testified about his 20 fear of returning to Guatemala. Id. ¶ 57. Petitioner was notified that the asylum officer found that 21 Petitioner has no reasonable fear, and that he could seek review of this determination while in ICE 22 detention. Id. ¶ 58. Petitioner is “currently locked in a temporary holding area at 630 Sansome 23 Street” Id. ¶ 6. An ICE agent informed Petitioner’s counsel that he will be transferred to a 24 new detention center soon, possibly by tomorrow, August 8, 2025. Id. 25 On August 7, 2025, this Petition was filed. Petitioner contends that his arrest and detention 26 violate the Due Process Clause of the Fifth Amendment, both substantively (because Respondents 27 allegedly have no valid interest in detaining him) and procedurally (because he was not provided

1 II. LEGAL STANDARD

2 The standard for issuing a temporary restraining order is identical to the standard for 3 issuing a preliminary injunction. See *Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 4 2017) (“[T]he legal standards applicable to TROs and preliminary injunctions are substantially 5 identical.” (internal quotation marks and citation omitted)). A plaintiff seeking preliminary 6 injunctive relief must establish “[1] that he is likely to succeed on the merits, [2] that he is likely to 7 suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in 8 his favor, and [4] that an injunction is in the public interest.” *Winter v. Natural Resources*

Defense 9 Council, Inc., 555 U.S. 7, 20 (2008). “[I]f a plaintiff can only show that there are serious 10 questions going to the merits – a lesser showing than likelihood of success on the merits – then a 11 preliminary injunction may still issue if the balance of hardships tips sharply in the plaintiff’s 12 favor, and the other two Winter factors are satisfied.” *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014) (internal quotation marks and citations omitted). “[W]hen the 14 Government is the opposing party,” the final two factors “merge.” *Nken v. Holder*, 556 U.S. 418, 15 435 (2009). 16 An injunction is a matter of equitable discretion and is “an extraordinary remedy that may 17 only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22. A “TRO ‘should be restricted to . . . preserving the status quo and preventing 19 irreparable harm just so long as is necessary to hold a [preliminary injunction] hearing and no 20 longer.’” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting 21 *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974)).

23 III. DISCUSSION

24 As a preliminary matter, the Court finds that the requirements for issuing a temporary 25 restraining order without notice set out in Federal Rule of Civil Procedure 65(b)(1) are met in this 26 case. Petitioner’s counsel has set out specific facts in a declaration showing that immediate and 27 irreparable injury, loss, or damage may result before the adverse party can be heard in opposition. 1 Civil Division Chief at the U.S. Attorney’s Office for the Northern District of California on

2 August 7, 2025, and provided a copy of Petitioner’s habeas petition by email. See Gutierrez Decl.

3 ¶ 3, ECF No. 2-1; see also Fed. R. Civ. Pro. 65(b)(1)(B). 4 Petitioner has demonstrated a likelihood of success on the merits of his claim that his 5 ongoing detention violates his procedural due process rights under the Fifth Amendment. The 6 Due Process Clause entitles Petitioner to a bond hearing before an immigration judge prior to any 7 arrest or detention. See, e.g., *Pablo Sequen v. Kaiser*, No. 25-cv-06487-PCP, 2025 WL 2203419, 8 at *2 (N.D. Cal. Aug. 1, 2025) (collecting cases). 9 Petitioner has also demonstrated a likelihood of irreparable injury in the absence of 10 temporary relief. The likely unconstitutional deprivation of liberty that Petitioner faces is an 11 immediate and irreparable harm. “It is well established that the deprivation of constitutional rights 12 ‘unquestionably constitutes irreparable injury.’” *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th

13 Cir. 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged

14 deprivation of a constitutional right is involved, most courts hold that no further showing of 15 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) 16 (cleaned up). “[I]t follows inexorably from [the] conclusion” that Petitioner’s detention without a 17 pre-detention hearing is “likely unconstitutional,” that he has “also carried [his] burden as to 18

irreparable harm.” Hernandez, 872 F.3d at 995. 19 The final two Winter factors, the balance of the equities and public interest, also weigh 20 heavily in favor of granting temporary relief. “[T]he public has a strong interest in upholding 21 procedural protections against unlawful detention, and the Ninth Circuit has recognized that the 22 costs to the public of immigration detention are staggering.” Jorge M. F. v. Wilkinson, No. 21-cv- 23 01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021) (cleaned up); see Melendres, 695 24 F.3d at 1002 (“[I]t is always in the public interest to prevent the violation of a party’s 25 constitutional rights.” (quotation omitted)); Preminger v. Principi, 422 F.3d 815, 826 (9th Cir. 26 2005) (“Generally, public interest concerns are implicated when a constitutional right has been 27 violated, because all citizens have a stake in upholding the Constitution.”). As other courts in this 1 is significant, while the potential harm to the government is minimal.” Pablo Sequen, 2025 WL 2 2203419, at *3. At most, the government faces a short delay in detaining Petitioner if it ultimately 3 demonstrates, by clear and convincing evidence, that his detention is necessary to prevent danger 4 to the community or flight. See Jorge M. F., 2021 WL 783561, at *3; Diaz v. Kaiser, No. 3:25-cv- 5 05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025). The government is not “harmed in any 6 legally cognizable sense by being enjoined from constitutional violations.” Zepeda v. U.S. 7 Immigr. & Nat. Serv., 753 F.2d 719, 727 (9th Cir. 1983). “Faced with . . . a conflict between 8 minimally costly procedures and preventable human suffering, [the Court has] little difficulty 9 concluding that the balance of hardships tips decidedly in plaintiffs’ favor.” Singh v. Andrews, 10 No. 25-cv-00801, 2025 WL 1918679, at *9 (E.D. Cal. July 11, 2025) (quoting Hernandez, 872 11 F.3d at 996) (cleaned up). 12 A TRO immediately releasing Petitioner is appropriate here to return him to the status quo. 13 E. Bay Sanctuary Covenant, 932 F.3d at 779. The status quo refers to “the last uncontested status 14 which preceded the pending controversy.” Doe v. Noem, No. 25-cv-00633, 2025 WL 1141279, at 15 *9 (W.D. Wash. Apr. 17, 2025) (citing GoTo.com, Inc. v. Walt Disney Co., 202 F.3d 1199, 1210 16 (9th Cir. 2000)). That is the moment prior to his likely illegal detention. See Kuzmenko v. 17 Phillips, No. 25-cv-00663, 2025 WL 779743, at *2 (E.D. Cal. Mar. 10, 2025) (granting a 18 temporary restraining order requiring immediate release of the petitioner back to home 19 confinement from custody, as a restoration of the status quo). 20 Because Petitioner satisfies all requirements for temporary injunctive relief and such relief 21 is necessary to restore the status quo, the TRO Motion is granted as detailed below. This Order 22 accords with many other recent grants of temporary relief in similar circumstances. See, e.g., 23 Garro Pinchi v. Noem, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025) 24 (granting temporary restraining order requiring release of asylum seeker and a pre-detention bond 25 hearing before re-arrest), converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL 26 2084921 (N.D. Cal. July 24, 2025); Singh, 2025 WL 1918679, at *10 (granting preliminary 27 injunction); Doe v. Becerra, No. 2:25-cv-647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 1 temporary restraining order requiring pre-detention hearing before re-detention of noncitizen out 2 of custody five years); Garcia v. Bondi, No. 25-cv-5070, 2025 WL 1676855, at *3 (N.D. Cal.

June 3 14, 2025) (granting temporary restraining order requiring pre-detention hearing before re- 4 detention of noncitizen out of custody six years); Enamorado v. Kaiser, No. 25-cv-4072-NW, 5 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025). 6 Because “there is no realistic likelihood of harm to the [Respondents] from enjoining 7 [their] conduct.” Jorgensen v. Cassiday, 320 F.3d 906, 919 (9th Cir. 2003), no security is needed 8 to ensure that Respondents will be reimbursed for “costs and damages sustained by . . . hav[ing] 9 been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c). The Court exercises its discretion 10 under Rule 65(c) to dispense with the filing of bond. Jorgensen, 320 F.3d at 919.

11 IV. ORDER

12 For the foregoing reasons, IT IS HEREBY ORDERED that Petitioner’s Ex Parte Motion 13 for Temporary Restraining Order is GRANTED to preserve the status quo pending further 14 briefing and a hearing on this matter. Respondents are ORDERED to immediately release 15 Petitioner from Respondents’ custody and ENJOINED AND RESTRAINED from re-detaining 16 Petitioner without notice and a pre-deprivation hearing before a neutral decisionmaker, and from 17 removing him from the United States.1 This Order shall remain in effect until Thursday, August 18 21, 2025, at 9:00 p.m. 19 The Petition for Writ of Habeas Corpus, Motion for Temporary Restraining Order, and this 20 Order SHALL be served on Respondents such that they receive actual notice as soon as 21 practicable, and Petitioner shall file proof of such service by no later than Friday, August 8, 2025. 22 Respondents shall provide a status report confirming Petitioner’s release by Saturday, August 9, 23 2025. 24 25 1 Petitioner also asks the Court to order that he remain within the Northern District of California in 26 order to preserve this Court’s jurisdiction, but it is well-established that “when the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the 27 District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction 1 Respondents are ORDERED TO SHOW CAUSE in-person at a hearing in the courtroom 2 || of the assigned Judge, or as otherwise ordered by that Judge, on Thursday, August 21, 2025, at 3 1:00 p.m. why a preliminary injunction should not issue. Respondents shall file a response to 4 || Petitioner’s motion by no later than Thursday, August 14, 2025. Any reply shall be filed by 5 Monday, August 18, 2025. 6 IT IS SO ORDERED. 7 Dated: August 7, 2025 8 9 Eumi K. Lee 10 United States District Judge 11 12 15 16 17 Z 18 19 20 21 22 23 24 25 26 27 28