

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

Garcia-Ayala v. Andrews

Garcia-Ayala · No. 2:25-cv-02070-DJC-JDP · Decided August 8, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Luis David Garcia-Ayala’s motion for a temporary restraining order concerning his immigration detention and potential removal to a third country. The court found serious questions regarding his due process right to notice and a hearing before revocation of his release and regarding removal to a country not previously designated. The court ordered his immediate release, prohibited re-detention without notice and a pre-deprivation hearing, and barred transfer or removal without notice and a hearing through August 22, 2025.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 LUIS DAVID GARCIA-AYALA, No. 2:25-cv-02070-DJC-JDP 12
Petitioner, 13 v. ORDER 14 TONYA ANDREWS, et al., 15 Defendants. 16 17 18 Pending before
the Court is Petitioner’s Motion for Temporary Restraining 19 Order. Petitioner filed a Writ of
Habeas Corpus and Motion for Temporary Restraining 20 Order against Defendants, the Warden
of Golden State Annex Detention Center 21 Tonya Andrews, Field Office Director for ICE Moises
Becerra, Assistant Field Office 22 Director for ICE Alexander Pham, Secretary of the Department
of Homeland Security 23 Kristi Noem, and United States Attorney General Pam Bondi.

Petitioner was released 24 from DHS custody in February 2023 but in June 2025 was rearrested
and re-detained 25 by ICE agents during a routine check in. Petitioner now requests that this Court
(1) 26 grant his immediate release from detention (2) prohibit his transfer out of this Court’s 27
jurisdiction and removal from the United States until further order from this Court and 28 (3) not
allow his re-detention until further order of this Court.

For the reasons 1 discussed below, the Court GRANTS Petitioner’s Motion for Temporary
Restraining 2 Order. 3 BACKGROUND 4 Petitioner fled to the United States from his home
country of El Salvador to 5 escape increasing forms of harassment and violence from the MS-13
gang, a corrupt 6 police officer, and the government of El Salvador. (See TRO (ECF No. 4) at 2–
3.)

7 Petitioner entered the United States on or around July 13, 2022, without inspection 8 and was
apprehended near the border, and processed for expedited removal 9 proceedings under 8 U.S.C. §

1225(b)(1). (Id. at 3,5.) Petitioner was then referred for 10 a Credible Fear Interview with the United States Citizenship and Immigration Services 11 and received a positive credible fear finding.

(See TRO at 3; ECF No. 11-1 ¶ 7.) 12 Petitioner's removal hearing took place in February 2023, where an 13 Immigration Judge found him ineligible for asylum or withholding of removal, but 14 held that Petitioner was more likely than not to experience torture or death if returned 15 to El Salvador. (TRO at 3; ECF No. 4-2, Ex. B at 10–11.)

Thus, the Immigration Judge 16 granted Petitioner a Deferral of Removal under the Convention Against Torture. (Id.) 17 That same month, apparently determining that he was neither a danger to the 18 community nor a flight risk, DHS released him from custody on an Order of 19 Supervision. (TRO at 3.; ECF No. 4-1 ¶ 5.) Petitioner appealed the Immigration 20 Judge's decision, and his appeal is pending before the Board of Immigration Appeals.

21 (TRO at 3,9.) 22 Petitioner remained out of custody for 28 months, until June 25, 2025. (TRO at 23 1; ECF No. 4-2, Ex. A.) On this date, Petitioner attended a check in, as was required by 24 his Order of Supervision, where ICE agents rearrested and re-detained him. (TRO at 25 3–4.) Petitioner alleges that he had not violated his Order of Supervision and had 26 attended every single appointment since his release in 2023.

(Id.) As far as Petitioner 27 knows, there is no final order of removal against him (TRO at 4), and the Respondent 28 has not alleged that the government has in fact provided him with an opportunity to 1 respond to the reasons for revoking his release. 2 Since his release from DHS custody in February 2023, Petitioner has had no 3 criminal record and has been employed in the construction industry.

(TRO at 1,9; ECF 4 No. 4-2, Ex. F ¶¶ 1, 3–5.) He maintains consistent contact with family, friends, and his 5 community. (TRO at 3.) Petitioner also contributes significant financial support to his 6 family in the United States. (Id.) Further, he has complied with his Order of 7 Supervision and attended all of his appointments over the last two years. (Id. at 3–4.)

8 Petitioner currently remains in ICE custody at the Golden State Annex 9 Detention Center without bond. (Id. at 4.) It has now been over one month since his 10 re-detention. In that time, Petitioner has not received a hearing to determine whether 11 he now presents a danger to the community or a risk of flight. (Id.) Petitioner is 12 further concerned that he may be removed or repatriated to a third country before 13 receiving an opportunity to apply for withholding of removal or protection under the 14 Convention Against Torture as to such country.

(Id.) 15 Petitioner filed a Writ of Habeas Corpus under 28 U.S.C. § 2241 in late July 16 2025 (ECF No. 1) and filed the instant Motion for Temporary Restraining Order a few 17 days later

seeking immediate release from detention and an order preventing Respondents from removing him to any third country without an opportunity to challenge such removal.

The Respondents filed an Opposition (Opp’n (ECF No. 11)) and Petitioner Replied (Reply (ECF No. 12)). The Court held a hearing and ordered the matter submitted. LEGAL STANDARD The standards for issuing a temporary restraining order and a preliminary injunction are “substantially” similar. See *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir.

2001). To obtain preliminary injunctive relief, Plaintiff must show (1) likelihood of success on the merits; (2) likelihood of irreparable harm in the absence of preliminary relief; (3) that the balance of the equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Where a plaintiff can show that there are serious questions going to the merits, then a preliminary injunction may still be issued if the balance of hardships tips sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied. *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 5 2014) (internal quotation marks and citations omitted).

6 DISCUSSION 7 The Court finds that issuance of a temporary restraining order is justified here 8 because “serious questions going to the merits” exist and the balance of hardships 9 tips sharply toward the plaintiff. See *All. for the Wild Rockies v. Cottrell*, 632 F.3d 10 1127, 1134–35 (9th Cir. 2011). 11 I. Likelihood of Success on the Merits 12 Petitioner argues that he is entitled to protection against removal to an 13 undesignated third country.

(TRO at 13.) Respondents do not oppose Petitioner’s 14 request for this relief in their Opposition. Under the Due Process Clause of the Fifth 15 Amendment to the United States Constitution, no person shall be “deprived of life, 16 liberty, or property, without due process of law[.]” U.S. Const., amend.

V. The due 17 process guarantee extends to deportation proceedings. *Ortega v. Kaiser*, No. 4:25-cv- 18 05259-JST, 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025) (citing *Torres-Aguilar v. I.N.S.*, 246 F.3d 1267, 1270 (9th Cir. 2001) (citation omitted).)

As such, “[a] noncitizen 20 must be given sufficient notice of a country of deportation that, given his capacities 21 and circumstances, he would have a reasonable opportunity to raise and pursue his 22 claim for withholding of deportation.” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 23 (W.D. Wash. 2019) (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405, 408 (7th Cir.

1998)). “In the context of country of removal 25 designations, last minute orders of removal to a country may violate due process if an 26 immigrant was not provided an opportunity to address

his fear of persecution in that 27 country.” Ortega, 2025 WL 1771438, at *3 (citing Najjar v. Lunch, 630 Fed. App’x 724 28 (9th Cir. 2016)). 1 Here, it appears that no party designated a country for removal other than El 2 Salvador.

Additionally, an Immigration Judge ordered Petitioner’s removal to El 3 Salvador be deferred under the CAT. There are therefore no countries to which 4 Petitioner could currently be removed without first being afforded notice and 5 opportunity to be heard on a fear-based claim as to that country.

Thus, Petitioner has 6 shown that there is a serious question on the merits of Petitioner’s third country 7 removal claim. See e.g., Ortega, 2025 WL 1771438, at *3 (finding a serious question 8 as to the merits of the noncitizen petitioner’s claim where an Immigration Judge 9 ordered his removal to El Salvador deferred under the CAT and no other country had 10 yet been designated).

As stated above, Respondents did not oppose relief on this 11 basis in their briefing or at oral argument. 12 Petitioner next contends that he is entitled to immediate release because DHS 13 terminated his parole without proper process under the Immigration and Nationality 14 Act and its regulations, and in violation of the Due Process Clause of the Fifth 15 Amendment to the United States Constitution.

(See TRO at 8–9.) Respondents argue 16 that Petitioner is detained pursuant to 8 U.S.C. § 1225(b) (1), which is constitutionally 17 sound and mandates the detention of noncitizens, such as Petitioner, while 18 proceedings are pending. (See Opp’n at 4.) Respondents also argue that Petitioner’s 19 release from DHS custody was not parole and constitutes a lowered liberty interest.

20 (Id. at 5–6.) 21 “Freedom from imprisonment — from government custody, detention, or other 22 forms of physical restraint — lies at the heart of the liberty that the [Due Process] 23 Clause protects.” Zadvydas v. Davis, 533 U.S. 678, 690 (2001) (citation omitted). 24 Several courts, including this Court, have recognized that individuals released from 25 immigration custody for longstanding periods of time have a liberty interest in their 26 continued liberty.

See Doe v. Becerra, ---- F. Supp. 3d ----, 2025 WL 691664, at *4-5 27 (E.D. Cal. 2025) (analyzing the liberty interest of a noncitizen initially detained under 28 section 1225(b)(1) and then released for five years prior to his re-detention); Galindo 1 Arzate v. Andrews, No. 1:25-cv-00942-KES-SKO, 2025 WL 2230521, at *4 (E.D. Cal. 2 Aug. 4, 2025) (finding that the petitioner had a protected liberty interest in his release 3 from immigration custody); Pinchi v. Noem, No. 5:25-cv-05632-PCP, 2025 WL 4 1853763, at *2 (N.D.

Cal. July 4, 2025) (collecting cases recognizing a protectable 5 liberty interest in remaining out of custody on bond). Here, Petitioner was initially 6 detained pursuant to section 1225(b)(1). That said, DHS released him from their 7 custody in February 2023, apparently because he was not

considered a flight risk or 8 danger to the community. He remained out of custody until June 2025.

Petitioner has 9 therefore demonstrated a liberty interest that must be afforded some process if 10 revoked by the government. 11 Given Petitioner's liberty interest, the Court applies the framework outlined in 12 *Mathews v. Eldridge* to determine what process is due. See *Doe*, 2025 WL 691664, at 13 *5. *Mathews* considers three factors: (1) "the private interest that will be affected by 14 the official action[.]" (2) "the risk of an erroneous deprivation of such interest through 15 the procedures used, and the probable value, if any, of additional or substitute 16 procedural safeguards[.]" and (3) "the Government's interest, including the function 17 involved and the fiscal and administrative burdens that the additional or substitute 18 procedural requirement would entail." *Mathews*, 424 U.S. at 335.

19 Here, Petitioner has a substantial interest in maintaining his out-of-custody 20 status. Petitioner had been released for over two years prior to his re-detention. The 21 Court recognizes that in *Doe v. Becerra*, an earlier decision issued by this Court, the 22 noncitizen petitioner had been released from custody for over five years. See 2025 23 WL 691664, at *1.

Although the length of time here is shorter than in *Doe*, other 24 district courts have granted immediate release pending a hearing in front of a neutral 25 decisionmaker where noncitizen petitioners were released from custody for similar, or 26 even shorter, time periods. See *Pinchi*, 2025 WL 1853763, at *1 (granting immediate 27 release where petitioner-plaintiff had been released from custody for approximately 28 two years); *Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO, 2025 WL 1918679, at *1 1 (E.D.

Cal. July 11, 2025) (granting immediate release where petitioner had remained 2 out of custody for over seventeen months). Further, that Petitioner appears to have 3 established meaningful ties to his community and with his family and friends creates 4 an even more powerful interest for Petitioner in his continued liberty. 5 There is also a high risk of erroneous deprivation.

Petitioner alleges that he was 6 initially released because DHS determined that he was not a flight risk or danger to 7 the public. Respondents make no argument in their briefing that any changed 8 circumstances exist that would indicate that Petitioner is now a danger to the 9 community or a flight risk.

The Court expresses no opinion on whether a neutral 10 decisionmaker may ultimately make that determination. But at this stage, the lack of 11 new information as to whether changed circumstances exist warrant procedural 12 safeguards. 13 Finally, the Government's interest in re-detaining Petitioner without a hearing is 14 low.

In immigration court, custody hearings are routine and impose a "minimal" cost. 15 *Doe*, 2025 WL 691664, at *6 (citations omitted). Moreover, Petitioner has consistently 16 appeared for his

immigration hearings for more than two years and has not violated 17 the terms of his Order of Supervision¹. See *Pinchi*, 2025 WL 1853763, at *2 (finding 18 the government had a decreased interest where the petitioner had appeared for [his] 19 immigration hearings).

20 Petitioner has therefore shown that serious questions exist as to the on the 21 merits of his claims. 22 II. Irreparable Harm 23 Next, the Court finds that Petitioner will suffer irreparable harm in the absence 24 of preliminary injunctive relief. “It is well established that the deprivation of 25 constitutional rights unquestionably constitutes irreparable injury.” *Melendres v.* 26 1 The Respondents briefly state in their Opposition that Petitioner “has potential administrative 27 remedies” at his disposal and thus fails to show a likelihood of success on the merits.

(Opp’n at 4.) The Respondents do not elaborate on what these mechanisms are and thus the Court cannot assess 28 whether they are adequate. 1 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (citation and quotation omitted). 2 Additionally, “[t]he Ninth Circuit has recognized irreparable harms imposed on 3 anyone subject to immigration detention, including the economic burdens imposed 4 on detainees and their families as a result of detention....” *Diaz v. Kaiser*, No. 3:25- 5 cv-05071-TLT, 2025 WL 1676854, at *3 (N.D.

Cal. June 14, 2025) (quoting *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017) (quotations removed)). Moreover, 7 Petitioner would face irreparable harm from removal to a third country. See *A.A.R.P. v. 8 Trump*, 145 S. Ct. 1364, 1367 (2025) (stating that detainees with pending habeas 9 petitions facing removal under the Alien Enemies Act faced “an imminent threat of 10 severe, irreparable harm”).

11 Here, Petitioner remained out of custody for over two years without any 12 violation of his Order of Supervision and has now been rearrested without an 13 opportunity to be heard by a neutral decisionmaker as to whether his detention is 14 warranted. Without such review, Petitioner may remain indefinitely in custody until a 15 final decision is reached in his immigration case and potentially beyond given the 16 Immigration Judge’s ruling on the CAT claims.

Petitioner also states that his family 17 members depend on him for support, which he cannot provide while detained. 18 Given the violation of the Petitioner’s due process rights, and the economic burden he 19 and his family are facing, the Court finds that the irreparable harm requirement is met. 20 III. Balance of the Equities and Public Interest 21 The final two Winter factors, the balance of the equities and the public interest, 22 merge where the government is the nonmoving party.

Baird, 81 F.4th at 1040 23 (citation omitted). Without granting Petitioner the requested injunctive relief, 24 Petitioner faces further deprivation of his liberty. The comparative harm potentially 25 imposed on the Respondents are minimal — at most a delay in detaining Petitioner 26 upon showing that his re-detention is warranted. Additionally, “[i]t is always in the 27 public interest to

prevent the violation of a party's constitutional rights." *Index 28 Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 838 (9th Cir.

2020) (citation 1 omitted). Thus, this Court finds that the final two Winter factors, particularly the 2 balance of the equities, tip sharply in Petitioner's favor. 3 IV. Form of Injunctive Relief 4 Respondents argue that even if this Court concludes that Petitioner is entitled 5 to some relief, he is at most entitled to an administrative hearing and not release from 6 detention.

(Opp'n at 6.) Respondent cites several cases to support their argument, 7 but the Court does not find them applicable to the circumstances here. First, *Demore 8 v. Kim* discussed a challenge to the mandatory detention of noncitizens who had 9 committed certain crimes, including aggravated felonies. 538 U.S. 510, 517, 523, 10 527–30.

Here, the concerns outlined in *Demore* that justified denying bail due to 11 concerns about reoffending or absconding do not seem to apply here because DHS 12 determined that Petitioner was not a danger to the community or a flight risk. See *id.*, 13 at 518–20.. Additionally, Respondents cite to the Ninth Circuit's decision in *Prieto- 14 Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir.

2008), where a noncitizen had been 15 taken into custody under 8 U.S.C. § 1226(a). But *Prieto-Romero* did not involve 16 circumstances where the petitioner was previously released from DHS custody and 17 then had his release terminated. See *id.* at 1056 (stating that petitioner "ha[d] 18 remained in the continuous custody of the federal government").

As such, that case 19 did not involve discussion of whether a petitioner was entitled to a pre-deprivation 20 hearing similar to the circumstances at issue here. 21 Instead, the Court finds that to "preserve the status quo" the proper remedy in 22 this case is to return to "the last uncontested status which preceded the pending 23 controversy." *Doe v. Noem*, 778 F. Supp. 3d 1151, 1166 (W.D.

Wash. 2025) (citing 24 *GoTo.com Inc., v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000) (citation 25 omitted)). That would be the moment prior to Petitioner's detention. As a result, the 26 Court joins several other district courts who granted immediate release to preserve 27 the status quo. See e.g., *Singh*, 2025 WL 1918679, at *10; *Pinchi*, 2025 WL 1853763, 28 1 | at *3 (collecting cases also granting immediate release pending a hearing in front of a 2 || neutral decisionmaker)).

3 CONCLUSION 4 For the reasons stated above, IT |S HEREBY ORDERED that Petitioner's Motion 5 | for Temporary Restraining Order (ECF No. 4) is GRANTED so as to preserve the status 6 |} quo. 7 1. Respondents are ORDERED to immediately release Petitioner from 8 Respondents' custody and are ENJOINED AND RESTRAINED from re-detaining 9 Petitioner without notice and a pre-deprivation hearing before a neutral 10 decision maker.

Further, the Respondents are ENJOINED AND RESTRAINED 11 from transferring Petitioner out of this Court's jurisdiction or removing him from 12 the United States without notice and a hearing. This Order will remain in effect 13 until Friday, August 22, 2025 at 5:00 p.m. 14 2. Respondents shall file a status report confirming Petitioner's release by 15 Monday, August 11, 2025 at 10:00 a.m.

16 3. Respondents are ORDERED TO SHOW CAUSE why a Preliminary Injunction 17 should not issue on the same terms as this Temporary Restraining Order. 18 Respondents shall file a supplemental opposition no later than August 14, 2025 19 at 5:00 p.m. Petitioners shall file a supplemental reply no later than August 20, 20 2025 at 5:00 p.m. A hearing on the Preliminary Injunction and Order to Show 21 cause is SET for 10:00 am on Friday, August 22, 2025 in Courtroom 7 before 22 the Honorable Daniel J. Calabretta.

23 IT IS SO ORDERED. 25 | Dated: _ August 8, 2025 “Daniel J. Calabretta— Hon. Daniel J. Calabretta
26 UNITED STATES DISTRICT JUDGE 27 28 A4f)