

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Patricia Augusta Hetzel Silva, et al. v. Kristi Noem, et al.

Hetzel Silva v. Noem · No. 25-cv-3515-AGS-BLM · Decided December 15, 2025

SUMMARY

The United States District Court for the Southern District of California denied plaintiffs’ motion for a temporary restraining order seeking to prevent defendants from arresting, detaining, or initiating removal proceedings against them at scheduled I-485 interviews. The court declined to resolve whether service was required before emergency injunctive relief because plaintiffs failed to clearly demonstrate a likelihood of imminent irreparable harm.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Andrew G. Schopler
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 15, 2025
DOCKET	25-cv-3515-AGS-BLM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for a temporary restraining order barring defendants from arresting, detaining, or initiating removal proceedings against them at scheduled I-485 interviews. The district court denied the motion and vacated the scheduled hearing.
STANDARD OF REVIEW	A temporary restraining order is evaluated under the same substantive standard as a preliminary injunction. Plaintiffs must clearly demonstrate a likelihood of success on the merits, likely irreparable harm absent relief, that the balance of equities tips in their favor, and that an injunction is in the public interest.
PRECEDENTIAL VALUE	unknown

TOPICS

- injunctions
- immigration detention
- removal proceedings
- service of process
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court could issue a temporary restraining order before defendants had been served.
2. Whether plaintiffs established the prerequisites for a temporary restraining order, particularly a likelihood of irreparable harm.

HOLDINGS

1. The court did not decide whether service of process was required before emergency injunctive relief could issue because plaintiffs independently failed to satisfy the requirements for a temporary restraining order.
2. Plaintiffs were not entitled to a temporary restraining order because they failed to clearly demonstrate that they were likely to suffer irreparable harm in the absence of preliminary relief.

KEY QUOTATIONS

“an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” (at 2)

“Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” (at 2)

FACTUAL BACKGROUND

Plaintiffs were marriage-based I-485 applicants scheduled for mandatory interviews. They feared that Immigration and Customs Enforcement might arrest or detain them during or immediately after the interviews based on alleged prior threats and enforcement policies. They did not identify policies, practices, or communications substantiating those alleged threats or demonstrating that detention was likely to occur.

PROCEDURAL HISTORY

Plaintiffs filed an action seeking emergency injunctive relief against federal defendants. Defendants argued that the court lacked jurisdiction to issue a temporary restraining order because plaintiffs had not properly served them. The court declined to resolve the service and personal-jurisdiction issue because plaintiffs failed to establish the likelihood of imminent irreparable harm required for a temporary restraining order.

DISPOSITION

other

CASES CITED

- *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999)

- *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983)
- *Camargo Alejo v. Vista Det. Facility*, No. 3:25-cv-0258-AGS-JLB, 2025 WL 2084925, at *2 (S.D. Cal. July 24, 2025)
- *Security & Exch. Comm’n v. MCC Int’l Corp.*, No. 22-12281, 2024 WL 1508281, at *2 (11th Cir. Apr. 8, 2024)
- *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20, 22 (2008)
- *Synopsys, Inc. v. AzurEngine Techs.*, 401 F. Supp. 3d 1068, 1072 (S.D. Cal. 2019)

OPINION

1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF CALIFORNIA 3 Patricia Augusta HETZEL SILVA, et al., Case No.: 25-cv-3515-AGS-BLM 4 Plaintiffs ORDER DENYING MOTION FOR TEMPORARY RESTRAINING 5 v. ORDER (ECF 3) 6 Kristi NOEM, et al., 7 Defendants. 8 9 Plaintiffs request a temporary restraining order precluding defendants from 10 “arresting, detaining, or initiating removal proceedings against Plaintiffs at their scheduled 11 I-485 interview[s].” (ECF 3, at 5.)

Because Plaintiffs fail to establish that they are likely to 12 suffer imminent harm, their motion is denied. 13 Rather than contend with the merits of the claim, defendants assert that “the Court 14 lacks jurisdiction to issue a temporary restraining order,” because plaintiffs have not 15 properly “[s]erved” defendants. (ECF 6, at 2.)

After all, service is typically a precondition 16 to exercising personal jurisdiction. See *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 17 526 U.S. 344, 350 (1999) (noting that one “becomes a party officially, and is required to 18 take action in that capacity, only upon service of summons”). Some courts hold that, until 19 service is complete, the Court may not order emergency injunctive relief.

See *Zepeda v.* 20 *I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“A federal court may issue an injunction if it has 21 personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may 22 not attempt to determine the rights of persons not before the court.”). Yet others, relying 23 on Federal Rule of Civil Procedure 65, conclude that “a district court may issue a 24 temporary restraining order without written or oral notice to the adverse party if, among 25 other things, plaintiff ‘certifies in writing any efforts made to give notice and the reasons 26 why it should not be required.’” *Camargo Alejo v. Vista Det.*

Facility, No. 3:25-cv-0258- 27 AGS-JLB, 2025 WL 2084925, at *2 (S.D. Cal. July 24, 2025) (quoting Fed. R. 28 Civ. P. 65(b)(1)); see also *Security & Exch. Comm’n v. MCC Int’l Corp.*, No. 22-12281, 1 2024 WL 1508281, at *2 (11th Cir. Apr. 8, 2024) (holding that “Federal Rule of Civil 2 Procedure 65(a) does not require service of process” (cleaned up)).

The Court need not 3 decide the question today, however, as plaintiffs have not met their burden to justify a 4 temporary restraining order. 5 Turning to the merits, a temporary restraining order, like all injunctive relief, is “an 6 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is 7 entitled to such relief.” *Winter v. Natural Res.*

Def. Council, Inc., 555 U.S. 7, 22 (2008). 8 Plaintiffs must clearly demonstrate that: (1) they are “likely to succeed on the merits”; 9 (2) they are “likely to suffer irreparable harm in the absence of preliminary relief”; (3) “the 10 balance of equities tips in [their] favor”; and (4) “an injunction is in the public interest.” 11 *Id.* at 20; see also *Synopsys, Inc. v. AzurEngine Techs.*, 401 F. Supp. 3d 1068, 1072 12 (S.D.

Cal. 2019) (“The standard for obtaining a temporary restraining order is identical to 13 the standard for obtaining a preliminary injunction, with the primary difference being 14 [timing].”). 15 Plaintiffs have not shown that they are “likely to suffer... harm in the absence of 16 preliminary relief.” See *Winter*, 555 U.S. at 20 (emphasis added). Plaintiffs assert that 17 “[d]efendants have newly adopted and aggressively implemented an unlawful practice of 18 arresting marriage-based I-485 applicants at their mandatory interviews.” (ECF 3-1, at 2, 19 5.)

They assert that, “based on prior threats and enforcement policies, they reasonably fear 20 that ICE may attempt to arrest or detain them during or immediately following the USCIS 21 interview,” but do not cite to any policies, practices, or communications showing these 22 “prior threats and enforcement policies.” (*Id.*)

Thus, Plaintiffs have not clearly 23 demonstrated that this is likely to happen to them. (See generally ECF 3.) And “[i]ssuing a 24 preliminary injunction based only on a possibility of irreparable harm is inconsistent with 25 [the] characterization of injunctive relief as an extraordinary remedy that may only be 26 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S. 27 at 22.

Without more concrete facts about the likelihood of their detention, the court cannot 28 enjoin defendants. 1 The motion for a temporary restraining order is DENIED. Accordingly, the 2 || December 19, 2025 hearing is vacated. 3 Dated: December 15, 2025 5 Hon. rew G. Schopler 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