

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

OPINION

Noem

PER CURIAM.

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