

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Salcedo Aceros v. Kaiser

No. 25-cv-06924-RMI (EKL) (N.D. Cal. Aug. 16, 2025) · No. 25-cv-06924-RMI (EKL) · Decided August 16,
2025

OPINION

Salcedo Aceros v. Kaiser

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 PAULA ANDREA SALCEDO ACEROS, Case No. 25-cv-06924-RMI (EKL) 8 Plaintiff,

ORDER GRANTING TEMPORARY

9 v. RESTRAINING ORDER

10 POLLY KAISER, et al., Re: Dkt. No. 4 Defendants. 11 12 Before the Court is Petitioner's Ex
Parte Motion for Temporary Restraining Order. TRO 13 Mot., ECF No. 4. Petitioner filed a
Petition for Writ of Habeas Corpus on August 15, 2025, and 14 an Ex Parte Motion for Temporary
Restraining Order on August 16, 2025, against Respondents 15 Acting Field Office Director Polly
Kaiser, Acting Director of Immigration and Customs 16 Enforcement Todd M. Lyons, Secretary of
the Department of Homeland Security Kristi Noem, 17 and United States Attorney General
Pamela Bondi on August 16, 2025. ECF Nos. 1, 4, 5. 18 Petitioner asks this Court to (1) order her
immediate release from Respondents' custody pending 19 these proceedings, and (2) enjoin
Respondents from transferring her out of this District or 20 deporting her during the pendency of
the underlying proceedings. See Notice of Mot., ECF No. 4. 21 For the foregoing reasons, the
TRO is GRANTED as modified below. 22

23 I. BACKGROUND

24 According to the record before the Court, Petitioner is an asylum seeker who fled to the 25
United States from Colombia. Petition for Writ of Habeas Corpus ¶ 1, ECF No. 1. When 26
Petitioner arrived in the United States, "federal agents briefly detained her, determined that she 27
was not a flight risk or danger to the community, and released her on her own recognizance with a
1 done everything the government asked her to do: she has diligently attended every immigration
2 court hearing and filed an application for asylum within the one-year filing deadline." Id. 3
Petitioner "has no criminal history anywhere in the world." Id. 4 On August 15, 2025, Petitioner
attended a hearing in San Francisco Immigration Court. 5 Id. ¶ 2. At the hearing, the government
moved to dismiss its case seeking Petitioner's removal. 6 Id. The presiding judge did not grant the
motion; instead, he gave Petitioner time to respond to the 7 motion and set a merits hearing on her

asylum application for February 29, 2028. Id. Minutes 8 after Petitioner exited the courtroom, Department of Homeland Security agents arrested Petitioner. 9 Id. ¶ 3. Petitioner is currently being detained at 630 Sansome Street in San Francisco, California. 10 Id. ¶ 11. 11 On August 15, 2025, the Petition was filed. The same day, Petitioner’s counsel provided 12 notice of the Petition and a forthcoming motion for TRO, along with a copy of the Petition, to 13 Respondents’ counsel. Decl. of Jordan Weiner ¶ 5, ECF No. 5-3. Petitioner’s counsel spoke with 14 Respondents’ counsel via telephone, and they briefly discussed the motion. Id. On August 16, 15 2025, counsel filed the motion for TRO and sent a copy to Respondents’ counsel. Id. ¶ 6. In the 16 motion, Petitioner contends that her arrest and detention violate the Due Process Clause of the 17 Fifth Amendment, both substantively (because Respondents allegedly have no valid interest in 18 detaining her) and procedurally (because she was not provided with a pre-detention bond hearing).

19 II. LEGAL STANDARD

20 The standard for issuing a temporary restraining order is identical to the standard for 21 issuing a preliminary injunction. See *Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 22 2017) (“[T]he legal standards applicable to TROs and preliminary injunctions are substantially 23 identical.” (internal quotation marks and citation omitted)). A plaintiff seeking preliminary 24 injunctive relief must establish “[1] that he is likely to succeed on the merits, [2] that he is likely to 25 suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in 26 his favor, and [4] that an injunction is in the public interest.” *Winter v. Natural Resources Defense 27 Council, Inc.*, 555 U.S. 7, 20 (2008). “[I]f a plaintiff can only show that there are serious 1 preliminary injunction may still issue if the balance of hardships tips sharply in the plaintiff’s 2 favor, and the other two Winter factors are satisfied.” *Friends of the Wild Swan v. Weber*, 767 3 F.3d 936, 942 (9th Cir. 2014) (internal quotation marks and citations omitted). “[W]hen the 4 Government is the opposing party,” the final two factors “merge.” *Nken v. Holder*, 556 U.S. 418, 5 435 (2009). 6 An injunction is a matter of equitable discretion and is “an extraordinary remedy that may 7 only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 8 U.S. at 22. A “TRO ‘should be restricted to . . . preserving the status quo and preventing 9 irreparable harm just so long as is necessary to hold a [preliminary injunction] hearing and no 10 longer.’” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting 11 *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 12 423, 439 (1974)).

13 III. DISCUSSION

14 Petitioner has demonstrated a likelihood of success on the merits of her claim that her 15 ongoing detention violates her procedural due process rights under the Fifth Amendment. The 16 Due Process Clause entitles Petitioner to a bond hearing before an immigration judge prior to any 17 arrest or detention. See, e.g., *Pablo Sequen v. Kaiser*, No. 25-cv-06487-PCP, 2025 WL 2203419, 18 at *2 (N.D. Cal. Aug. 1, 2025) (collecting cases). 19 Petitioner has also demonstrated a likelihood of irreparable injury in the absence of 20 temporary relief. The likely unconstitutional

deprivation of liberty that Petitioner faces is an 21 immediate and irreparable harm. “It is well established that the deprivation of constitutional rights 22 ‘unquestionably constitutes irreparable injury.’” *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged 24 deprivation of a constitutional right is involved, most courts hold that no further showing of 25 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) 26 (cleaned up). “[I]t follows inexorably from [the] conclusion” that Petitioner’s detention without a 27 pre-detention hearing is “likely unconstitutional,” that he has “also carried [her] burden as to 1 The final two Winter factors, the balance of the equities and public interest, also weigh 2 heavily in favor of granting temporary relief. “[T]he public has a strong interest in upholding 3 procedural protections against unlawful detention, and the Ninth Circuit has recognized that the 4 costs to the public of immigration detention are staggering.” *Jorge M. F. v. Wilkinson*, No. 21-cv- 5 01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021) (cleaned up); see *Melendres*, 695 6 F.3d at 1002 (“[I]t is always in the public interest to prevent the violation of a party’s 7 constitutional rights.” (quotation omitted)); *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 8 2005) (“Generally, public interest concerns are implicated when a constitutional right has been 9 violated, because all citizens have a stake in upholding the Constitution.”). As other courts in this 10 district and others have concluded under similar circumstances, “the potential harm to [Petitioner] 11 is significant, while the potential harm to the government is minimal.” *Pablo Sequen*, 2025 WL 12 2203419, at *3. At most, the government faces a short delay in detaining Petitioner if it ultimately 13 demonstrates, by clear and convincing evidence, that her detention is necessary to prevent danger 14 to the community or flight. See *Jorge M. F.*, 2021 WL 783561, at *3; *Diaz v. Kaiser*, No. 3:25-cv- 15 05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025). The government is not “harmed in any 16 legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. U.S. 17 Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983). “Faced with . . . a conflict between 18 minimally costly procedures and preventable human suffering, [the Court has] little difficulty 19 concluding that the balance of hardships tips decidedly in plaintiffs’ favor.” *Singh v. Andrews*, 20 No. 25-cv-00801, 2025 WL 1918679, at *9 (E.D. Cal. July 11, 2025) (quoting *Hernandez*, 872 21 F.3d at 996) (cleaned up). 22 A TRO immediately releasing Petitioner is appropriate here to return her to the status quo. 23 E. Bay Sanctuary Covenant, 932 F.3d at 779. The status quo refers to “the last uncontested status 24 which preceded the pending controversy.” *Doe v. Noem*, No. 25-cv-00633, 2025 WL 1141279, at 25 *9 (W.D. Wash. Apr. 17, 2025) (citing *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 26 (9th Cir. 2000)). That is the moment prior to her likely illegal detention. See *Kuzmenko v. 27 Phillips*, No. 25-cv-00663, 2025 WL 779743, at *2 (E.D. Cal. Mar. 10, 2025) (granting a 1 confinement from custody, as a restoration of the status quo). 2 Because Petitioner satisfies all requirements for temporary injunctive relief and such relief 3 is

necessary to restore the status quo, the TRO Motion is granted as detailed below. This Order 4 accords with many other recent grants of temporary relief in similar circumstances. See, e.g., 5 *Alva Alva v. Kaiser*, 25-cv-06676, 2025 WL 2294917, at *3 (N.D. Cal. Aug. 7, 2025) (granting 6 temporary restraining order); *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 7 (N.D. Cal. July 4, 2025) (granting temporary restraining order requiring release of asylum seeker 8 and a pre-detention bond hearing before re-arrest), converted to preliminary injunction at __ F. 9 Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Singh*, 2025 WL 1918679, at *10 10 (granting preliminary injunction); *Doe v. Becerra*, No. 2:25-cv-647-DJC-DMC, 2025 WL 691664, 11 at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary restraining order); see also *Diaz*, 2025 WL 12 1676854 (granting temporary restraining order requiring pre-detention hearing before 13 of noncitizen out of custody five years); *Garcia v. Bondi*, No. 25-cv-5070, 2025 WL 1676855, at 14 *3 (N.D. Cal. June 14, 2025) (granting temporary restraining order requiring 15 pre-detention hearing before re-detention of noncitizen out of custody six years); *Enamorado v. Kaiser*, No. 25-cv- 16 4072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025). 17 Because “there is no realistic likelihood of harm to the [Respondents] from enjoining 18 [their] conduct.” *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003), no security is needed 19 to ensure that Respondents will be reimbursed for “costs and damages sustained by . . . hav[ing] 20 been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c). The Court exercises its discretion 21 under Rule 65(c) to dispense with the filing of bond. *Jorgensen*, 320 F.3d at 919.

22 IV. ORDER

23 For the foregoing reasons, IT IS HEREBY ORDERED that Petitioner’s Motion for 24 Temporary Restraining Order is GRANTED to preserve the status quo pending further briefing 25 and a hearing on this matter. Respondents are ORDERED to immediately release Petitioner from 26 Respondents’ custody and ENJOINED AND RESTRAINED from re-detaining Petitioner 27 without notice and a pre-deprivation hearing before a neutral decisionmaker, and from removing 1 her from the United States.! This Order shall remain in effect until Saturday, August 30, 2025, 2 at 5:00 p.m. 3 Respondents shall provide a status report confirming Petitioner’s release by Monday, 4 || August 17, 2025, at noon. 5 Respondents are ORDERED TO SHOW CAUSE in-person at a hearing in the courtroom 6 of the assigned Judge, or as otherwise ordered by that Judge, on Friday, August 29, 2025, at 1:00 7 p.m. why a preliminary injunction should not issue. Respondents shall file a response to 8 Petitioner’s motion by no later than Friday, August 22, 2025. Any reply shall be filed by 9 Tuesday, August 26, 2025. 10 IT IS SO ORDERED. 11 Dated: August 16, 2025 12 Eumi K. Lee 14 United States District Judge 15 16 17 Z 18 19 20 21 22 23 24 25 26 ' Petitioner also asks the Court to order that she remain within the Northern District of California in order to preserve this Court’s jurisdiction, but it is well-established that “when the Government 97 || moves a habeas petitioner after he properly files a petition naming him immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner’s release.” *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004)

