

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Kaifeng Wang v. Todd Lyons, et al.

Wang · No. 25-cv-10794-WHO · Decided December 18, 2025

OPINION

Wang

PER CURIAM.

1 p 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 KAIFENG WANG, Case No. 25-cv-10794-WHO 8 Plaintiff,

ORDER GRANTING TEMPORARY

9 v. RESTRAINING ORDER

10 TODD LYONS, et al., Re: Dkt. No. 2 Defendants. 11 12 13 Petitioner-plaintiff Kaifeng Wang
("Wang") moves the Court ex parte for a temporary 14 restraining order that would, among other
things, require his immediate release from ongoing 15 detention by agents of Immigration and
Customs Enforcement ("ICE") and prohibit ICE from re- 16 arresting Wang without affording him
a hearing before a neutral decisionmaker. For the reasons 17 set forth below, Wang's request is
GRANTED. I ORDER defendants to release Wang from his 18 ongoing detention and prohibit
defendant from re-arresting or otherwise re-detaining Wang 19 without first providing him a
hearing before an immigration judge at which the government 20 establishes by clear and
convincing evidence that revocation of his previously-granted interim 21 parole is appropriate
because detention is necessary to prevent his flight or to protect the public.

22 BACKGROUND

23 The evidence before the Court establishes that Wang, a native and citizen of China, arrived 24
in the United States on November 7, 2024 without inspection. On December 18, 2024, ICE 25
granted him interim parole for a period of one year. Later, on January 21, 2025, ICE issued Wang
26 a notice "notifying him to report to 630 Sansome Street, San Francisco, CA 94111 for a check-
in 27 to re-issue a new interim parole." Motion for Temporary Restraining Order ("Mot.") [Dkt.
No. 2] 1 Wang filed an I-589 application for asylum with the United States Customs and 2
Immigration Services ("USCIS") on March 5, 2025. Id. He was issued a Form I-589 receipt that 3
same day. Id. The basis for his asylum application was his fear of "returning to China because he 4
has suffered past persecution by the Chinese police because they arrested, beat, and tortured him."
5 Id. 6 On June 6, 2025, USCIS issued a Notice of Dismissal of Form I-589 to Wang, stating that
7 the asylum office "will issue an appointment notice for credible fear." Id. Wang was then

paroled 8 into the United States and has resided continuously in the United States since the issuance of 9 parole. *Id.* On December 18, 2025, while attending a routine immigration check-in, ICE detained 10 Wang, where he currently remains. *Id.*

11 LEGAL STANDARD

12 The standard for issuing a temporary restraining order is largely identical to the standard 13 for issuing a preliminary injunction. See *Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 14 2017). Petitioners seeking such relief must establish that (1) they are “likely to succeed on the 15 merits”; (2) they are “likely to suffer irreparable harm in the absence of preliminary relief”; (3) 16 “the balance of equities tips in [their] favor”; and (4) “an injunction is in the public interest.” 17 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 21 (2008). “[I]f a plaintiff can only show that 18 there are ‘serious questions going to the merits’—a lesser showing than likelihood of success on 19 the merits—then a preliminary injunction may still issue if the ‘balance of hardships tips sharply 20 in the plaintiff’s favor and the other two *Winter* factors are satisfied.” *All. for the Wild Rockies v. 21 Peña*, 865 F.3d 1211, 1217 (9th Cir. 2017) (quoting *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 22 F.3d 1281, 1291 (9th Cir. 2013)). “Where, as here, the party opposing injunctive relief is a 23 government entity, the third and fourth factors—the balance of equities and the public interest— 24 merge.” *Hubbard v. City of San Diego*, 139 F.4th 843, 854 (9th Cir. 2025) (citation modified). 25 Although the substantive standards for both motions are similar, the timeframe for a temporary 26 restraining order is different. While a preliminary injunction remains in effect pending final 27 resolution of the litigation, “a TRO ‘should be restricted to ... preserving the status quo and 1 and no longer.’” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting 2 *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70*, 415 3 U.S. 423, 439 (1974)). Federal Rule of Civil Procedure 65(b)(1) allows a temporary restraining 4 order to be issued without notice to the opposing party—i.e., *ex parte*—only if “specific facts in an 5 affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or 6 damage will result to the movant before the adverse party can be heard in opposition” and “the 7 movant’s attorney certifies in writing any efforts made to give notice and the reasons why it 8 should not be required.”

9 DISCUSSION

10 As an initial matter, Wang has satisfied the requirements for issuance of an *ex parte* order. 11 The affidavit of the petitioner’s counsel demonstrates that he will suffer immediate and irreparable 12 injury, loss, or damage by virtue of his continued detention before respondent can be heard in 13 opposition, and that counsel attempted to contact the United States Attorney’s Office on December 14 18, 2025. 15 With respect to the showing required to justify Wang’s requested relief, he has 16 demonstrated a likelihood of success on the merits of his claim that his ongoing detention violates 17 his procedural due process rights under the Due Process Clause of the Fifth Amendment. “It is 18 well established that the Fifth Amendment entitles [noncitizens] to due process of law in 19 deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003).

“Freedom from 20 imprisonment—from government custody, detention, or other forms of physical restraint—lies at 21 the heart of the liberty” that the Due Process Clause affords. *Zadvydas v. Davis*, 533 U.S. 678, 22 690 (2001). Upon identifying a protected liberty interest, the district court must determine the 23 procedural due process afforded to the plaintiff under *Mathews v. Eldridge*, 424 U.S. 319, 335 24 (1976). Under the *Mathews* test, courts balance three factors: “first, the private interest that will 25 be affected by the official action; second, the risk of an erroneous deprivation of such interest 26 through the procedures used, and the probative value, if any, of additional or substitute procedural 27 safeguards; and finally the government’s interest, including the function involved and the fiscal 1 *Haygood v. Younger*, 769 F.2d 1350, 1357 (9th Cir. 1985) (en banc) (citing *Mathews*, 424 U.S. at 2 335). 3 Here, Wang has sufficiently identified his liberty interests in remaining out of immigration 4 custody. Noncitizens like Wang who are conditionally released into the United States have a 5 significant liberty interest in remaining out of immigration custody. *Pablo Sequen v. Albarran*, 6 No. 25-CV-06487-PCP, __ F. Supp. 3d __, 2025 WL 2935630, at *5 (N.D. Cal. Oct. 15, 2025); 7 *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017 (“[A] person who is in fact free 8 of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that 9 entitles him to constitutional due process before he is re-incarcerated”). 10 Wang has also properly alleged that the *Mathews* factors suggest defendants failed to 11 provide Wang with the proper procedural due process requirements prior to incarceration. First, 12 Wang’s private interest in his liberty is substantial. Wang has resided in the United States since 13 November 7, 2024, and certainly “has an interest in remaining in [his] home . . . providing for 14 [his] family . . . [and] maintaining [his] relationships in the community.” Mot. at 3; *Pinchi v. 15 Noem*, 792 F. Supp. 3d 1025, 1033 (N.D. Cal. 2025) (Pitts, J.) (citing *Diaz v. Kaiser*, No. 3:25- 16 CV-05071, 2025 WL 167684 (N.D. Cal. June 14, 2025)). 17 Additionally, Wang has shown that this detention without a hearing was an erroneous 18 deprivation of his liberty interests. Wang maintains that the text of 8 U.S.C. § 1226(a) and § 19 1225(b)(2) demonstrate that he is not subject to mandatory detention and is afforded certain 20 procedural due process protections. Mot. at 9–15. Under 8 U.S.C. § 1226(a), a noncitizen “may 21 be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the 22 United States.” Wang argues in detail that the plain text of the statute demonstrates that the 23 provision covers “those present within and residing within the United States and who are not at the 24 border seeking admission,” including Wang. Mot. at 12. Under this reading, therefore, Wang 25 would be subject to hearings under 8 U.S.C. § 1226(a)—which allow individuals to be released if 26 they do not present a danger to persons or property and is not a flight risk—rather than 8 U.S.C. § 27 1225(b)(2)(A).1 See Mot. at 16; *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 2 (BIA 2006). I agree that under this reading of the statute, defendants have not shown how Wang 3 is either a flight risk of a danger to the community, and that Wang was entitled to a bond hearing 4 or release. Mot. at 16; *Zadvydas*, 533 U.S. at 690; *Matter of Patel*, 17 I&N Dec. 597, 666 (BIA 5

1976) (“[A noncitizen] generally is not and should not be detained or required to post bond except 6 on a finding that he is a threat to the national security, or that he is a poor bail risk.”) (internal 7 citations omitted); *Alvarenga Matute v. Wofford*, No. 1:25-CV-01206-KES-SKO, 2025 WL 8 2817795 (E.D. Cal. Oct. 3, 2025). Because Wang never received a bond hearing, a completed 9 Notice and Order of Expedited Removal, or any other procedural protections, he has sufficiently 10 established a likelihood of erroneous deprivation of his Fifth Amendment rights. 11 Finally, Wang establishes that additional procedural safeguards—including a hearing 12 before a neutral decision-maker—is “one of the most basic due process protections” and would 13 place a “de minimis . . . burden on the government,” especially in light of the potential costs to the 14 public by keeping Wang detained. *Mot.* at 9 (quoting *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 15 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 16 (2006)). Taken together, the strength of Wang’s liberty interest, the high likelihood of erroneous 17 deprivation, and the government’s minimal countervailing interest demonstrate that Wang is likely 18 to succeed on the merits of his procedural due process claim. 19 Wang has also demonstrated a likelihood of irreparable injury in the absence of temporary 20 relief due to his ongoing and likely unconstitutional deprivation of liberty. “The loss or threatened 21 infringement upon [constitutional] rights for even minimal periods of time unquestionably 22 constitutes irreparable injury.” *Cuviello v. City of Vallejo*, 944 F.3d 816, 832 (9th Cir. 2019) 23 (citation modified). “When an alleged deprivation of a constitutional right is involved, most 24 courts hold that no further showing of irreparable injury is necessary.” *Baird v. Bonta*, 81 F.4th 25 26 1 According to Wang, the DHS issued a policy on July 8, 2025 that “instructs all ICE employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—including those present 27 without admission—to be an ‘applicant for admission’ and therefore subject to mandatory 1 1036, 1042 (9th Cir. 2023) (citation modified). It follows from this conclusion that Wang “will 2 likely be deprived of [his] physical liberty unconstitutionally in the absence of the injunction . . . 3 that [he] ha[s] also carried [his] burden as to irreparable harm.” *Hernandez v. Sessions*, 872 F.3d 4 976, 995 (9th Cir. 2017). 5 The final two Winter factors—the balance of the equities and the public interest—also tip 6 in Wang’s favor. These two factors are merged because the government is the opposing party. 7 *Nken v. Holder*, 556 U.S. 418, 435 (2009). Because Wang has sufficiently alleged the policies 8 preventing him from obtaining bond “is inconsistent with federal law . . . the balance of hardships 9 and public interest factors weigh in favor” of granting the temporary restraining order. *Moreno 10 Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019). “Because public interest 11 concerns are implicated when a constitutional right has been violated, all citizens have a stake in 12 upholding the Constitution, meaning it is always in the public interest to prevent the violation of a 13 party’s constitutional rights.” *Baird*, 81 F.4th at 1042 (citation modified). Where Wang is 14 suffering irreparable harm in detention, the potential harm to the government—at worst, a short 15 delay in detaining Wang until it makes the requisite showing of necessity before a neutral 16 decisionmaker—is minimal. *Diaz v. Kaiser*, No. 3:25-

CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025). 18 Finally, Wang's immediate release is required to return him to the status quo. The "status quo" refers to the state of the parties' relationship "before the action challenged in the complaint 20 occurred." Youth 71Five Ministries v. Williams, No. 24-101, ___ F.4th ___, 2025 WL 2385151, at *5 21 (Aug. 18, 2025). Here, that is the moment prior to J.A.M.C.'s likely illegal detention. See Pablo 22 Sequen, ___ F. Supp. 3d ___, 2025 WL 2650637, at *4 n.2; Kuzmenko v. Phillips, No. 25-CV-00663, 23 2025 WL 779743, at *2 (E.D. Cal. Mar. 10, 2025) (granting a temporary restraining order 24 requiring immediate release of the petitioner back to home confinement from custody, as a 25 restoration of the status quo. 26 Because Wang satisfies all of the requirements for temporary injunctive relief and such 27 relief is necessary to restore the status quo, his motion for a temporary restraining order is 1 enjoining [their] conduct," Jorgensen v. Cassiday, 320 F.3d 906, 919 (9th Cir. 2003), no security 2 || is needed to ensure that respondents will be reimbursed for "costs and damages sustained by .. . 3 || hav[ing] been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c). The Court exercises its 4 || discretion under Rule 65(c) to dispense with the filing of bond. Jorgensen, 320 F.3d at 919.

5 CONCLUSION

6 For the foregoing reasons, it is hereby ORDERED that petitioners' motion for a temporary 7 restraining order as to Wang is GRANTED to preserve the status quo pending further briefing and 8 a hearing on this matter. Defendants are ORDERED to immediately release Wang from custody 9 || and are ENJOINED AND RESTRAINED from re-detaining Wang without providing him a pre- 10 || deprivation hearing before a neutral decisionmaker at which the government establishes by clear 11 and convincing evidence that detention is appropriate to prevent his flight or to protect the public. 12 Should defendants choose to conduct such a hearing, defendants are ORDERED to provide Wang 5 13 || with reasonable advance notice of the time and place of the hearing and an order issued. 14 This Order shall remain in effect until January 15, 2026. While Federal Rule of Civil 3 15 || Procedure 65(b)(2) typically requires temporary restraining orders to "not. . . exceed 14 days," a 16 || because of the upcoming holiday period, the Court finds that "good cause" exists to extend the 3 17 Order until a preliminary injunction hearing can be held on the matter. 18 This Order SHALL be served on defendants such that they receive actual notice as 19 soon as possible. Petitioner shall file proof of service or a status report by no later than December 20 || 22, 2025 at 12:00 p.m. PT. Defendants shall provide a status report confirming the release of 21 Wang by no later than December 22, 2025 at 12:00 p.m. PT. 22 Defendants are ORDERED TO SHOW CAUSE why a preliminary injunction should not 23 be issued in favor of Wang. The hearing will be held via Zoom videoconference at 10:00 a.m. PT 24 || on January 8, 2026. Defendants shall file a response to Wang's motion by no later than January 25 2, 2026 at 5:00 p.m. PT. Any reply shall be filed by January 6, 2026 at 12:00 p.m. PT.

26 IT IS SO ORDERED. . \

27 Dated: December 18, 2025 002 liam H. Orrick 28 United States District Judge

