

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Filippo Eleuteri v. Gregory J. Archambault, et al.

Case No. 25-cv-03620-BAS-DDL (S.D. Cal. Dec. 17, 2025) · No. 25-cv-03620-BAS-DDL · Decided December 17, 2025

SUMMARY

The court orders the government to respond to Filippo Eleuteri’s petition for a writ of habeas corpus under 28 U.S.C. § 2241, challenging his ICE detention. The court denies his ex parte request for a temporary restraining order, sets briefing deadlines on his motion for injunctive relief, and provides notice that it intends to consider consolidation under Federal Rule of Civil Procedure 65(a)(2).

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cynthia Bashant
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 17, 2025
DOCKET	25-cv-03620-BAS-DDL
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2241 habeas petition challenging his ICE detention and an ex parte emergency application for a temporary restraining order and immediate release. The district court declined to summarily dismiss the petition, denied the ex parte TRO request, ordered the Government to respond, set a briefing schedule, and provided notice that it intended to consolidate the injunctive-relief proceedings with a determination on the merits under Federal Rule of Civil Procedure 65(a)(2).
STANDARD OF REVIEW	The court applied the standard that summary dismissal of a habeas petition is appropriate only when the allegations are vague or conclusory, palpably incredible, or patently frivolous or false. For ex parte temporary restraining orders, the court applied Rule 65(b) and the requirement that extraordinary circumstances justify proceeding without notice.
PRECEDENTIAL VALUE	Unknown; interlocutory district-court order

TOPICS

immigration detention

federal habeas corpus

injunctions

civil procedure

administrative law

PRACTICE AREAS

immigration

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QUESTIONS PRESENTED

1. Whether the habeas petition warranted summary dismissal at the initial screening stage.
2. Whether the court should issue an ex parte temporary restraining order without providing the Government notice and an opportunity to respond.
3. Whether the court could provide notice of its intent to consolidate the motion for injunctive relief with a determination on the merits under Federal Rule of Civil Procedure 65(a)(2).

HOLDINGS

1. Summary dismissal was unwarranted at that time because the petition's allegations were not shown to be vague or conclusory, palpably incredible, or patently frivolous or false; therefore, the Government was ordered to respond.
2. The court denied the ex parte request for a temporary restraining order because extraordinary circumstances were not established and the Government should receive notice and a reasonable opportunity to oppose the requested relief.
3. The court provided notice that it intended to consolidate the motion for injunctive relief with a determination on the merits under Rule 65(a)(2), subject to the parties' opportunity to respond.

KEY QUOTATIONS

“Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false.” (at 2)

“While temporary restraining orders may be heard in true ex parte fashion (i.e., without notice to an opposing party), the Court will do so only in extraordinary circumstances.” (at 2)

“Finally, the Court provides notice to the parties that it intends to consolidate the Motion for Injunctive Relief with a determination on the merits under Rule 65(a)(2).” (at 3)

FACTUAL BACKGROUND

Filippo Eleuteri alleged that Immigration and Customs Enforcement was detaining him in violation of the Immigration and Nationality Act, the Fifth Amendment, and the Administrative Procedure Act. He sought immediate release from ICE custody on recognizance or minimal bond. He also requested an ex parte temporary restraining order and other injunctive relief.

PROCEDURAL HISTORY

On December 16, 2025, Filippo Eleuteri filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 and a motion for injunctive relief. The district court issued this order on December 17, 2025, requiring the Government to respond by December 24, 2025, permitting a reply by December 31, 2025, and denying the request to proceed ex parte for a temporary restraining order.

DISPOSITION

other

CASES CITED

- Kourteva v. INS, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001)
- Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County, 415 U.S. 423, 438-39 (1974)
- Reno Air Racing Ass'n, Inc. v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006)
- Slidewaters LLC v. Washington State Department of Labor & Industries, 4 F.4th 747, 759 (9th Cir. 2021)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 FILIPPO ELEUTERI, Case No. 25-cv-03620-BAS-DDL 12 Petitioner,
ORDER: 13 v. (1) REQUIRING THE 14 GREGORY J. ARCHAMBRAULT, et al.,
GOVERNMENT TO RESPOND 15 Respondents. TO PETITION FOR WRIT OF HABEAS
CORPUS (ECF No. 1); 16 17 (2) SETTING BRIEFING SCHEDULE ON MOTION FOR 18
INJUNCTIVE 19 RELIEF (ECF No. 2); AND 20 (3) PROVIDING NOTICE UNDER 21 RULE
65(a)(2) 22 23 On December 16, 2025, Petitioner Filippo Eleuteri filed a Petition for Writ of
Habeas 24 Corpus pursuant to 28 U.S.C. § 2241.

(ECF No. 1.) In his Petition, Petitioner claims that 25 he is being detained by Immigration and
Customs Enforcement (“ICE”) in violation of the 26 Immigration and Nationality Act, the Fifth
Amendment, and the Administrative Procedure 27 Act. (Id.) 28 1 In addition, Petitioner filed an
Ex Parte Emergency Application for Temporary 2 Restraining Order and Order for Immediate
Release (“Motion for Injunctive Relief”).

3 (ECF No. 2.) Petitioner asks the Court to order his immediate release from ICE custody 4 “on
recognizance or minimal bond.” (Id.) 5 Having reviewed the Petition, the Court finds summary
dismissal is unwarranted at 6 this time. See Kourteva v. INS, 151 F. Supp. 2d 1126, 1128 (N.D.
Cal. 2001) (“Summary 7 dismissal is appropriate only where the allegations in the petition are
vague or conclusory, 8 palpably incredible, or patently frivolous or false.”).

Therefore, the Court will order the 9 Government to respond to the Petition. 10 Turning to the
Motion for Injunctive Relief, the Court denies the ex parte request for 11 a temporary restraining
order. See Fed. R. Civ. P. 65(b). “While temporary restraining 12 orders may be heard in true ex

parte fashion (i.e., without notice to an opposing party), the 13 Court will do so only in extraordinary circumstances.

The Court's strong preference is for 14 the opposing party to be served and afforded a reasonable opportunity to file an 15 opposition." Standing Order for Civil Cases § 9; see also *Granny Goose Foods, Inc. v. 16 Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 438– 17 39 (1974) (discussing ex parte temporary restraining orders and their "stringent 18 restrictions"); accord *Reno Air Racing Ass'n, Inc. v. McCord*, 452 F.3d 1126, 1131 (9th 19 Cir.

2006) (same). Thus, the Court will instead consider the Motion for Injunctive Relief 20 under Rule 65(a) and provide the Government with an opportunity to respond. 21 Finally, the Court provides notice to the parties that it intends to consolidate the 22 Motion for Injunctive Relief with a determination on the merits under Rule 65(a)(2). See 23 Fed. R. Civ.

P. 65(a)(2); see also *Slidewaters LLC v. Wash. State Dep't of Lab. & Indus.*, 24 4 F.4th 747, 759 (9th Cir. 2021) (noting the court can invoke Rule 65(a)(2) by giving "clear 25 and unambiguous notice"). Accordingly, the Court ORDERS as follows: 26 1.

The Government must file a response to the Petition and the Motion for 27 Injunctive Relief no later than December 24, 2025. The Government's response must 28 | }address the allegations in the Petition and must include any documents relevant to the 2 | }determination of the issues raised in the Petition. 3 2. Petitioner may file a reply in support of his Petition and the Motion for 4 | }Injunctive Relief no later than December 31, 2025.

5 3. The Clerk of Court shall provide the Civil Division of the U.S. Attorney's 6 | }Office with a copy of the Petition (ECF No. 1), the Motion for Injunctive Relief (ECF No. 7 | }2), and this Order. 8 IT IS SO ORDERED. 9 10 | }DATED: December 17, 2025 ii ly A (Dipharb 11 Hon. Cynthia Bashant, Chief Judge United States District Court 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 □□□