

**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

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 □□□