

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Arturo Misael Hernandez Burruel v. Ron Murray, et al.

Hernandez Burruel v. Murray · No. 1:25-cv-01569-DAD-AC · Decided November 20, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Arturo Misael Hernandez Burruel’s ex parte motion for a temporary restraining order concerning his immigration detention. The court waived prudential exhaustion, finding that he was likely entitled to a custody hearing under 8 U.S.C. § 1226(a), and concluded that continued detention without the possibility of a bond hearing would cause irreparable harm. Respondents were ordered to provide an individualized bond hearing within seven days or release him under supervision and were enjoined from transferring him outside the Eastern District of California.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 20, 2025
DOCKET	1:25-cv-01569-DAD-AC
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner brought a 28 U.S.C. § 2241 habeas petition challenging his immigration detention and moved ex parte for a temporary restraining order requiring a bond hearing or release and prohibiting his transfer outside the Eastern District of California.
STANDARD OF REVIEW	A temporary restraining order is governed by a standard substantially identical to that for a preliminary injunction. The moving party must show likelihood of success on the merits, likely irreparable harm, that the balance of equities favors relief, and that an injunction is in the public interest; alternatively, serious questions going to the merits and a sharply favorable balance of hardships may suffice. The movant bears the burden, and injunctive relief is an extraordinary remedy requiring a clear showing of entitlement.

PRECEDENTIAL VALUE	Nonprecedential interlocutory order granting a temporary restraining order
PARTIES	Arturo Misael Hernandez Burrue! v. Ron Murray, et al.

TOPICS

immigration detention injunctions procedural due process immigration civil procedure

PRACTICE AREAS

immigration habeas corpus injunctive relief constitutional law

QUESTIONS PRESENTED

1. Whether petitioner was likely to succeed on his claim that he was entitled to a custody or bond hearing under 8 U.S.C. § 1226(a).
2. Whether prudential exhaustion of administrative remedies should be waived where petitioner had not received a bond hearing and respondents agreed that § 1226 applied but offered no assurance that a hearing would be provided.
3. Whether petitioner established the four Winter factors necessary for a temporary restraining order.
4. Whether respondents should be ordered to provide an individualized bond hearing or release petitioner under supervision and be enjoined from transferring him outside the Eastern District of California.

HOLDINGS

1. The court waived the prudential exhaustion requirement because each of the Puga factors favored waiver in the circumstances presented: agency expertise was unnecessary, waiver would not encourage deliberate bypass of the administrative scheme, and administrative review was unlikely to correct the asserted error or avoid judicial review.
2. Petitioner was likely to succeed on the merits because the parties agreed that 8 U.S.C. § 1226 applied and that petitioner was entitled to a bond hearing under § 1226(a), yet he had remained detained without such a hearing.
3. Continued detention without the possibility of release through a bond hearing would impose irreparable harm on petitioner and his family.
4. The balance of equities and the public interest favored granting a temporary restraining order because the government had a strong interest in lawful detention procedures, while providing a bond hearing imposed minimal cost and protected procedural safeguards.

KEY QUOTATIONS

“The proper legal standard for preliminary injunctive relief requires a party to demonstrate ‘that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.’” (at 2)

“Nonetheless, even if the three Puga factors weigh in favor of prudential exhaustion, a court may waive the prudential exhaustion requirement if ‘administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.’” (at 3)

“Just as the public has an interest in the orderly and efficient administration of this country’s immigration laws, the public has a strong interest in upholding procedural protections against unlawful detention.” (at 6)

FACTUAL BACKGROUND

Petitioner, a Mexican citizen who entered the United States on a tourist visa in December 2019 and overstayed, was arrested by immigration officers during a November 4, 2025 immigration interview. He had married a United States citizen, had two young children, and had filed immigration paperwork seeking lawful permanent resident status. He remained detained without a bond hearing and, according to the record, had not been placed in immigration proceedings. His detention caused financial, emotional, and health-related harms to his wife and children.

PROCEDURAL HISTORY

Petitioner filed a habeas petition on November 16, 2025, and moved for a temporary restraining order on November 17. The court ordered service and invited an opposition; respondents opposed on November 18, and petitioner replied on November 19. The court granted the temporary restraining order.

DISPOSITION

other

CASES CITED

- Stuhlberg Int’l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001)
- Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20, 22 (2008)
- Center for Food Safety v. Vilsack, 636 F.3d 1166, 1172 (9th Cir. 2011)
- American Trucking Ass’n, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009)
- Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1131, 1134-35 (9th Cir. 2011)
- Klein v. City of San Clemente, 584 F.3d 1196, 1201 (9th Cir. 2009)
- Caribbean Marine Services Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988)
- Disney Enterprises, Inc. v. VidAngel, Inc., 869 F.3d 848, 856 (9th Cir. 2017)
- Hernandez v. Sessions, 872 F.3d 976, 988, 995 (9th Cir. 2017)
- Puga v. Chertoff, 488 F.3d 812, 815 (9th Cir. 2007)
- Drakes Bay Oyster Co. v. Jewell, 747 F.3d 1073, 1092 (9th Cir. 2014)
- Nken v. Holder, 556 U.S. 418, 435 (2009)
- Hoac v. Becerra, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *6 (E.D. Cal. July 16, 2025)

- Vargas v. Jennings, 2020 WL 5074312, at *4
- Doe v. Becerra, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025)

OPINION

Murray

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ARTURO MISAEL HERNANDEZ No. 1:25-cv-01569-DAD-AC

BURRUEL,

12 Petitioner,

13 ORDER GRANTING PETITIONER’S EX

v. PARTE MOTION FOR A TEMPORARY

14 RESTRAINING ORDER

RON MURRAY, et al., 15 (Doc. No. 2) Respondents. 16 17 18 This matter is before the court on
petitioner’s ex parte motion for a temporary restraining 19 order filed on November 17, 2025.
(Doc. No. 2.) For the reasons explained below, the court will 20 grant petitioner’s motion.

21 BACKGROUND

22 On November 16, 2025, petitioner Arturo Misael Hernandez Burruel filed a petition for 23 writ
of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his detention by United States 24
Immigration and Customs Enforcement (“ICE”). (Doc. No. 1.) Petitioner asserts the following 25
two claims in that petition: (1) violation of petitioner’s right to due process; and (2) violation of 26
the Immigration and Nationality Act. (Id. at ¶¶ 48–51.) In support of the pending motion for a 27
temporary restraining order, petitioner has presented evidence of the following. 28 // 1 Petitioner
is a native and citizen of Mexico who was born on October 7, 1997 in Baja 2 California Sur. (Doc.
No. 2-1 at 2.) Petitioner entered the United States with a tourist visa on or 3 about December 2019
and overstayed his visa. (Id. at 4, 7.) 4 He met his wife Adolfinia Arellano Almazan on February
14, 2020, and the couple 5 married on January 8, 2022 in San Jose, California. (Id. at 4.) They had
their first child, Mariana, 6 on June 8, 2023, and their second child, Melina, on July 14, 2025. (Id.)
On August 22, 2022, 7 petitioner and his wife filed immigration paperwork for petitioner to obtain
his lawful permanent 8 residence status in the United States. (Id. at 37.) Petitioner’s application for
residence confirmed 9 that he had never been arrested or convicted of any crime, had never
provided any false 10 documentation or information to a United States official, and was gainfully
employed. (Id. at 19, 11 24, 27.) On November 4, 2025, petitioner and his wife attended their
immigration interview in 12 San Jose, California. (Id. at 5.) Petitioner alleges that, without
warning, he was arrested by 13 immigration officers during his interview and has remained in

immigration detention since that 14 time. (Doc. No. 1 at ¶¶ 2, 13.) Petitioner has not been given a bond hearing and has not been 15 placed in immigration proceedings. (Doc. No. 2-1 at 6.) 16 As a result, according to petitioner’s wife, she has been unable to sleep or eat well and her 17 preexisting post-partem depression seems to be getting worse. (Id. at 5–6.) Meanwhile, their 18 two-year-old daughter seems to understand what is going on, has been crying every hour for her 19 father, and has a hard time falling asleep since it was her dad who always put her to sleep by 20 singing to her. (Id. at 5.) Petitioner’s wife does not have money to pay for their daughter’s diaper 21 or formula, so her extended family, parents, and siblings have been helping them buy diapers, 22 formula, and food. (Id. at 6.) 23 On November 17, 2025, petitioner filed the pending motion for a temporary restraining 24 order. (Doc. No. 2.) In that motion, petitioner requests that the court order that respondents 25 release him from custody if he is not provided a custody hearing under 8 U.S.C. § 1226(a) within 26 seven days of the court’s order. (Id. at 22.) Petitioner also requests that respondents be enjoined 27 from transferring petitioner outside of the Eastern District of California. (Id.) On the same day, 28 the court directed petitioner’s counsel to serve respondents with a copy of the petition, the motion 1 for temporary restraining order, and accompanying papers, and set a deadline for respondents’ 2 opposition. (Doc. No. 4.) On November 18, 2025, respondents filed their opposition to the 3 pending motion. (Doc. No. 6.) On the same day, the court directed petitioner to file a reply to 4 respondents’ opposition. (Doc. No. 7.) On November 19, 2025, petitioner filed his reply. (Doc. 5 No. 8.)

6 LEGAL STANDARD

7 The standard governing the issuing of a temporary restraining order is “substantially 8 identical” to the standard for issuing a preliminary injunction. See *Stuhlbarg Int’l Sales Co. v. 9 John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “The proper legal standard for 10 preliminary injunctive relief requires a party to demonstrate ‘that he is likely to succeed on the 11 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the 12 balance of equities tips in his favor, and that an injunction is in the public interest.’” *Stormans, 13 Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (quoting *Winter v. Nat. Res. Def. Council, 14 Inc.*, 555 U.S. 7, 20 (2008)); see also *Ctr. for Food Safety v. Vilsack*, 636 F.3d 1166, 1172 (9th 15 Cir. 2011) (“After *Winter*, ‘plaintiffs must establish that irreparable harm is likely, not just 16 possible, in order to obtain a preliminary injunction.’”); *Am. Trucking Ass’n, Inc. v. City of Los 17 Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). A plaintiff seeking a preliminary injunction must 18 make a showing on all four of these prongs. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 19 1135 (9th Cir. 2011). The Ninth Circuit has also held that “[a] preliminary injunction is 20 appropriate when a plaintiff demonstrates . . . that serious questions going to the merits were 21 raised and the balance of hardships tips sharply in the plaintiff’s favor.” *Id.* at 1134–35 (citation 22 omitted). The party seeking the injunction bears the burden of proving these elements. *Klein v. 23 City of San Clemente*, 584 F.3d 1196, 1201 (9th Cir. 2009); see also *Caribbean Marine Servs. Co.*

24 v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988) (citation omitted) (“A plaintiff must do more than
25 merely allege imminent harm sufficient to establish standing; a plaintiff must demonstrate 26
immediate threatened injury as a prerequisite to preliminary injunctive relief.”). Finally, an 27
injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the 28
plaintiff is entitled to such relief.” Winter, 555 U.S. at 22. 1 The likelihood of success on the merits
is the most important Winter factor. See Disney 2 Enters., Inc. v. VidAngel, Inc., 869 F.3d 848,
856 (9th Cir. 2017). Plaintiff bears the burden of 3 demonstrating that he is likely to succeed on
the merits of his claims or, at the very least, that 4 “serious questions going to the merits were
raised.” All. for Wild Rockies, 632 F.3d at 1131.

5 DISCUSSION

6 A. Likelihood of Success on the Merits 7 Petitioner argues that he is likely to succeed on the
merits because 8 U.S.C. § 1226, rather 8 than 8 U.S.C. § 1225, applies here, and petitioner has
been detained without a bond hearing, 9 which should have been afforded to him pursuant to 8
U.S.C. § 1226(a). (Doc. No. 2 at 12–18.) 10 In opposition, respondents agree that 8 U.S.C. § 1226
applies in petitioner’s case, but argue that 11 petitioner is entitled to a custody redetermination
before an Immigration Judge only upon request, 12 and petitioner has not made the requisite
request. (Doc. No. 6 at 1.) Petitioner responds by 13 arguing that he has had no opportunity to
request a bond hearing because he is unable to request a 14 bond hearing without first being
brought before the immigration court, and he has never attended 15 an immigration court hearing
or otherwise been placed within the immigration court’s 16 jurisdiction. (Doc. No. 8 at 3.) Because
attempts on his part to request a bond hearing would be 17 futile and cause irreparable injury in
the form of his continued detention, petitioner argues that the 18 court should waive any prudential
exhaustion requirement. (Id. at 5–8.) 19 The court may require a petitioner to exhaust certain
administrative remedies, though this 20 requirement is “prudential, rather than jurisdictional, for
habeas claims.” Hernandez v. Sessions, 21 872 F.3d 976, 988 (9th Cir. 2017). Courts consider the
following factors when deciding whether 22 to require the petitioner to exhaust administrative
remedies: 23 (1) agency expertise makes agency consideration necessary to generate a proper
record and reach a proper decision; (2) relaxation 24 of the requirement would encourage the
deliberate bypass of the administrative scheme; and (3) administrative review is likely to 25 allow
the agency to correct its own mistakes and to preclude the need for judicial review. 26 27 Puga v.
Chertoff, 488 F.3d 812, 815 (9th Cir. 2007) (citations omitted). “If a petitioner fails to 28 exhaust
prudentially required administrative remedies, then ‘a district court ordinarily should 1 either
dismiss the petition without prejudice or stay the proceedings until the petitioner has 2 exhausted
remedies.’” Hernandez, 872 F.3d at 988 (citation omitted). “Nonetheless, even if the 3 three Puga
factors weigh in favor of prudential exhaustion, a court may waive the prudential 4 exhaustion
requirement if ‘administrative remedies are inadequate or not efficacious, pursuit of 5
administrative remedies would be a futile gesture, irreparable injury will result, or the 6
administrative proceedings would be void.’” Id. 7 As to the first Puga factor, here agency expertise

is not necessary to generate a proper record or reach a proper decision. It is undisputed by the parties before the court that petitioner is entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). Whether this court or an immigration court directs that one be provided to petitioner is immaterial. As to the second Puga factor, relaxation of the exhaustion requirement in this context would not encourage deliberate bypass of the administrative scheme. Instead, requiring a bond hearing will shift initial decision-making authority back to the immigration court as appropriate. As to the third and final Puga factor, requiring administrative review of the need for a bond hearing is not likely to allow the agency to correct its own mistakes and preclude the need for judicial review. In fact, according to respondents, they have not yet even had the opportunity to make a mistake as to the provision of a bond hearing because petitioner has not, as far as they are concerned, properly requested one. On the other hand, according to petitioner, “[r]espondents have ripped the wheels off the vehicle of Due Process and ran it into a ditch” by preventing petitioner from even requesting a bond hearing.¹ (Doc. No. 8 at 2.) The court finds that whether respondents have not yet erred or have 1 The court need not and does not address petitioner’s argument that exhaustion is futile because respondents have deprived him of the ability to request a bond hearing with the immigration court. The court does note, however, that “[j]urisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service.” 8 C.F.R. § 1003.14(a). “However, no charging document is required to be filed with the Immigration Court to commence bond proceedings[.]” Id. Even assuming no charging document has been filed, “[a]pplications for the exercise of authority to review bond determinations” may be made, “[i]f the respondent is detained, to the Immigration Court having jurisdiction over the place of detention[.]” 8 C.F.R. § 1003.19(c)(1). Where, as here, petitioner has counsel who can file a request for a bond hearing, it would appear conceivable that respondents’ failure to initiate immigration proceedings does not necessarily prevent petitioner from filing directly with the appropriate immigration court to request a bond hearing. 1 prevented petitioner from seeking review of respondents’ errors, requiring petitioner to pursue 2 administrative remedies in this case would not afford respondents the opportunity to correct any 3 mistakes. 4 Finally, the court observes that respondents’ argument regarding whether petitioner has 5 requested a bond hearing through administrative channels would appear to be at least arguably 6 disingenuous where petitioner’s filing of this action and motion for a temporary restraining order 7 has obviously put respondents on notice of petitioner’s request just as well, and yet respondents 8 have offered no assurances to this court of plans to afford petitioner the requested bond hearing to 9 which they agree he is entitled. 10 Because consideration of each Puga factor favors waiving the prudential exhaustion 11 requirement in this limited regard, the court will do so. Having dispensed with respondents’ sole 12 argument in opposition to petitioner’s motion, the court finds that petitioner is likely to succeed 13 on the merits. 14 B. Irreparable Harm 15 Petitioner argues that continued immigration detention, harms to petitioner’s family 16 resulting from his absence, and violation of petitioner’s due process rights

all constitute irreparable harm. (Doc. No. 2 at 19–20.) Respondents do not argue otherwise. The Ninth Circuit has recognized that there are “irreparable harms imposed on anyone subject to immigration detention” such as “subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained.” *Hernandez*, 872 F.3d at 995. Petitioner has offered evidence that his wife and two children rely on him financially, mentally, and emotionally and are experiencing and will continue to experience irreparable harm while he is detained. (Doc. No. 2-1 at 5–6.) Accordingly, the court finds that continued detention without the possibility of release through a bond hearing would impose irreparable harm on petitioner and his family. 1 C. Balance of Equities and Public Interest 2 Petitioner argues that the last two Winter factors—the balance of equities and public interest—favor the granting of his motion for a temporary restraining order. (Doc. No. 2 at 20– 21.) Once again, respondents do not argue otherwise. 5 The consideration of the balance of equities and the public interest in an injunction merge 6 “[w]hen the government is a party[.]” *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). “Just as the public has an interest in the orderly and efficient administration of this country’s immigration laws, the public has a strong interest in upholding procedural protections against unlawful detention.” *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *6 (E.D. Cal. July 16, 2025) (internal quotation marks omitted) (quoting *Vargas v. Jennings*, 2020 WL 5074312, at *4). Meanwhile, as petitioner convincingly argues, immigration bond hearings are routine procedures that impose a minimal cost on the government. *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025) 14 (“[T]he Government’s interest in placing Petitioner in detention without a hearing is low. . . . 15 The effort and cost required to provide Petitioner with procedural safeguards is minimal[.]”). 16 Therefore, the court concludes that consideration of the last two Winter factors also favor granting 17 petitioner’s motion for a temporary restraining order.

18 CONCLUSION

19 For the reasons above, 20 1. Petitioner’s motion for a temporary restraining order (Doc. No. 2) is GRANTED 21 as follows: 22 a. Respondents are ORDERED to either, within seven (7) days from the date of 23 this order, afford petitioner an individualized bond hearing before an 24 immigration judge with authority to grant petitioner bail pursuant to 8 U.S.C. 25 § 1226(a) or immediately release petitioner from custody under an order of 26 supervision; 27 b. Respondents are ENJOINED AND RESTRAINED from transferring petitioner 28 outside of the Eastern District of California; 1 2. The parties are directed to meet and confer and, if possible, submit a joint 2 proposed briefing schedule and hearing date with respect to any motion for a 3 preliminary injunction no later than fourteen (14) days from the date of entry of 4 this order; and 5 3. Under the circumstances of this case, petitioner will not be required to post bond 6 pursuant to Rule 65(c) of the Federal Rules of Civil Procedure. 7 IT IS SO ORDERED. * | Dated: _ November 20, 2025

Dab A. 2, sxe

9 DALE A. DROZD

10 UNITED STATES DISTRICT JUDGE

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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