

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

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 8 record or reach a proper decision. It is undisputed by the parties before the court that petitioner is 9 entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). Whether this court or an immigration 10 court directs that one be provided to petitioner is immaterial. As to the second Puga factor, 11 relaxation of the exhaustion requirement in this context would not encourage deliberate bypass of 12 the administrative scheme. Instead, requiring a bond hearing will shift initial decision-making 13 authority back to the immigration court as appropriate. As to the third and final Puga factor, 14 requiring administrative review of the need for a bond hearing is not likely to allow the agency to 15 correct its own mistakes and preclude the need for judicial review. In fact, according to 16 respondents, they have not yet even had the opportunity to make a mistake as to the provision of a 17 bond hearing because petitioner has not, as far as they are concerned, properly requested one. On 18 the other hand, according to petitioner, “[r]espondents have ripped the wheels off the vehicle of 19 Due Process and ran it into a ditch” by preventing petitioner from even requesting a bond 20 hearing.¹ (Doc. No. 8 at 2.) The court finds that whether respondents have not yet erred or have 21 1 The court need not and does not address petitioner’s argument that exhaustion is futile because 22 respondents have deprived him of the ability to request a bond hearing with the immigration 23 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 24 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 25 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 26 jurisdiction over the place of detention[.]” 8 C.F.R. § 1003.19(c)(1). Where, as here, petitioner 27 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 28 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 17 irreparable harm. (Doc. No. 2 at 19–20.) Respondents do not argue otherwise. 18 The Ninth Circuit has recognized that there are “irreparable harms imposed on anyone 19 subject to immigration detention” such as “subpar medical and psychiatric care in ICE detention 20 facilities, the economic burdens imposed on detainees and their families as a result of detention, 21 and the collateral harms to children of detainees whose parents are detained.” *Hernandez*, 872 22 F.3d at 995. Petitioner has offered evidence that his wife and two children rely on him 23 financially, mentally, and emotionally and are experiencing and will continue to experience 24 irreparable harm while he is detained. (Doc. No. 2-1 at 5–6.) Accordingly, the court finds that 25 continued detention without the possibility of release through a bond hearing would impose 26 irreparable harm on petitioner and his family. 27 // 28 // 1 C. Balance of Equities and Public Interest 2 Petitioner argues that the last two Winter factors—the balance of equities and public 3 interest—favor the granting of his motion for a temporary restraining order. (Doc. No. 2 at 20– 4 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 7 Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). “Just as the public has an interest 8 in the orderly and efficient administration of this country’s immigration laws, the public has a 9 strong interest in upholding procedural protections against unlawful detention.” *Hoac v. Becerra*, 10 No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *6 (E.D. Cal. July 16, 2025) (internal 11 quotation marks omitted) (quoting *Vargas v. Jennings*, 2020 WL 5074312, at *4). Meanwhile, as 12 petitioner convincingly argues, immigration bond hearings are routine procedures that impose a 13 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