UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	5:26-cv-00947-SVW-ACCV	Date	April 17, 2025
Title	*Alhayek v. Santacruz Jr et al*		

Present: The Honorable	STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Daniel Tamayo	N/A
Deputy Clerk	Court Reporter / Recorder
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
N/A	N/A

Proceedings: ORDER DENYING PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER [4]

I. Introduction

Before the Court is a motion for temporary restraining order ("TRO"), filed by Petitioner Suliman Alhayek ("Petitioner") on February 27, 2026. ECF No. 4. For the following reasons, the Court DENIES the motion.

II. Relevant Background

Petitioner is a Christian refugee from Syria, who fled to the United States on May 20, 2023. Petition ("Pet."), ECF No. 1 at 2. Upon arrival, Petitioner was promptly detained by Immigration and Customs Enforcement ("ICE"), charged with inadmissibility and placed in expedited removal proceedings. *Id.* After a negative finding in a credible fear interview was affirmed by an immigration judge, Petitioner was ordered removed to Syria on June 24, 2023. *Id.* However, unable to effectuate the removal, ICE released Petitioner under an "order of supervision" on July 22, 2023. Petitioner has since remained in the United States with Temporary Protected Status ("TPS") and work authorization and complied with the supervision requirements of his release. *Id.*

:

Initials of Preparer DTA

On November 11, 2025, Petitioner was re-detained by ICE without notice for the purpose of executing the 2023 removal order. *Id.* After 100 days of detention, Petitioner requested a custody review, but the government failed to respond. TRO at 5. On February 27, 2026, Petitioner filed a petition before this Court for a writ of habeas corpus, alleging that the government had violated Petitioner's due process and equal protection rights under the Fifth Amendment of the United States Constitution, the Immigration and Nationality Act, and the Administrative Procedure Act. On the same day, Petitioner filed a motion for a temporary restraining order, requesting immediate release.

On March 2, 2026, the Court ordered the government to respond to the temporary restraining order. ECF No. 6. The government responded, but the response related to an entirely different case and informed the Court that an apparently unrelated detainee, Gurpreet Singh, had been released from ICE detention. ECF No. 7. The response made no reference to Petitioner and offered no argument to justify his continued detention.

However, after an order to show cause why sanctions should not issue by the Court, Respondents withdrew and corrected its response to address the substantive issues of this Petition on March 29, 2026. ECF No. 10.

III. Legal Standard

Injunctive relief is "an extraordinary remedy that may only be awarded upon a clear showing that the [petitioner] is entitled to such relief." *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008) (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam)). "A [petitioner] seeking a preliminary injunction must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Id.* These same elements apply to Petitioner's TRO. *West v. PBC Mgmt. LLC*, No. 23-cv-03283-BLF, 2023 U.S. Dist. LEXIS 118204, 2023 WL 4477296, at *2 (N.D. Cal. July 10, 2023) (citing *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) ("The

:

Initials of Preparer DTA

standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction.")).

"[I]f a [petitioner] can only show that there are 'serious questions going to the merits'—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the 'balance of hardships tips *sharply* in the [petitioner's] favor,' and the other two *Winter* factors are satisfied." *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014) (quoting *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013)).

Importantly, a temporary restraining order "is an extraordinary and drastic remedy, [and] one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). Indeed, the moving party bears the burden of meeting all prongs of the *Winter* test. *DISH Network Corp. v. FCC*, 653 F.3d 771, 776 (9th Cir. 2011) ("To warrant a preliminary injunction [or TRO], [the petitioner] must demonstrate that it meets all four of the elements of the preliminary injunction test established in *Winter*[.]"). The decision of whether to grant or deny a temporary restraining order is a matter of the district court's equitable discretion. *See Winter*, 555 U.S. at 32.

IV. Discussion

Generally, an alien subject to a final order of removal is generally held in custody and then removed within 90 days. *See Zadvydas v. Davis,* 533 U.S. 678, 682 (2001). However, by statute, the government may continue to detain such aliens beyond this 90-day "removal period;" *Id;* 8 U.S.C. § 1231(a)(6) ("An alien ordered removed [1] who is inadmissible ... [2] [or] removable [as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or foreign policy] or [3] who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to [certain] terms of supervision ....").

:

Initials of Preparer DTA

The Supreme Court has clarified that such post-removal-period detentions may not be "indefinite;" they are limited by the due process clause of the Fifth Amendment to the constitution to a period "reasonably necessary to bring about that alien's removal." *Zadvydas*, 533 U.S. at 689-90. To determine whether a detention is "indefinite," a habeas court must look to the particular circumstances of the detention to determine whether removal is "reasonably foreseeable." *Id.* at 699. Giving some leeway to Executive expertise in these matters, the Supreme Court has held that detentions that last less than six-months are presumptively reasonable.

Here, Petitioner has been detained since November 11, 2025. The detention, as of the date of this Order, has therefore lasted for a little over five months. Therefore, the detention is presumptively reasonable. Petitioner has failed to establish that removal to Syria is not reasonably foreseeable. Petitioner has not provided evidence that Syria has denied acceptance of Petitioner, or that United States immigration laws or procedures preclude his removal there. After all, the credible fear interview in 2023 yielded a negative finding. In the absence of such evidence, Petitioner has not met the heavy burden required for a TRO by a clear showing that he can overcome the presumption that his five-month detention is reasonable. Accordingly, the Court cannot at this time find a likelihood of success on the merits, and the motion should be denied.

However, if the detention continues beyond the presumptively reasonable 6-month period, the burden will shift, and Petitioner's likelihood of winning on the merits will improve. Accordingly, the Court will deny the motion without prejudice to renewal in 25 days (when the burden has shifted to the government under *Zadvydas*), so the Court may consider new circumstances.

V. Conclusion

For the foregoing reasons, Petitioner's motion for Temporary Restraining Order is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

:

Initials of Preparer DTA