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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PRINCE JOSEPH PETERS,
Petitioner,

v.

ADMINISTRATOR, MESA VERDE
DETENTION CENTER,

Respondent.

CASE NO. 1:25-CV-00497-SKO

MOTION TO DISMISS UNDER
28 U.S.C. § 2254, RULE 4, AND
RESPONSE TO 28 U.S.C. § 2241
PETITION

On 4/29/2025, Petitioner filed for relief under 28 U.S.C. § 2241. ECF 1. In his single ground, Petitioner — a non-citizen alien — claimed his prolonged detention pending removal from the United States violated the U.S. Constitution (Fifth Amendment). *Id.* at 2-3, 22-24. For relief, Petitioner demanded that this Eastern District of California (EDCA) court-of-custody order another jurist (Immigration Judge) to conduct a detention (bond) hearing or *ab initio* order his immediate release under § 2241. *Id.*

I. BACKGROUND¹

Born in 1986, Petitioner -- whose country of origin is Liberia -- entered the United States in 2003 (near age 17). As an adult, Petitioner was convicted of forgery (Georgia), theft (Georgia), assault (Pennsylvania), and terrorist threats (Pennsylvania). *See* Jerome Declaration (Decl.) p 3, Exh. 5.

¹ Respondent provides, filed herewith, pertinent background information through the 6/16/2025 Declaration (Decl.) of C. T. Jerome and related exhibits.

1 Accordingly, as a matter of law, Petitioner was subject to mandatory detention under 8 U.S.C. § 1226(c).
2 Specifically, in immigration court removal proceedings his mandatory detention is compelled because
3 he has suffered conviction of an aggravated felony as defined in 8 U.S.C. § 1101(a)(43)(F). *Id. See also*
4 ECF 1 at 22 (Petitioner conceding his civil detention is mandatory under § 1226(c)).

5 On 2/19/2020, Petitioner, after completion of his state imprisonment terms, was detained by
6 DHS, and he was placed into removal proceedings. Decl. p 3. From onset of detention (2/19/2020)
7 through 11/24/2021 (approx. 21-months), Petitioner himself -- through his demands for continuances
8 and his motions and appeals -- delayed his immigration court proceedings and prolonged his detention.
9 Decl. pp 4-5. On 11/29/2021, Petitioner's untimely motion to reopen with belated motion to stay
10 removal (filed with the Board of Immigration Appeals (BIA)) resulted in protracted proceedings under
11 stayed removal status. At length, under the BIA grant of Petitioner's own motion to stay removal, on
12 9/13/2023, the matter (acceding to Petitioner's demand to make his untimely claims of adjustment of
13 status and withholding of removal) was referred to an Immigration Judge for *de novo* removal
14 proceedings. *See id.* Then, after remand to the Immigration Judge, Petitioner himself continued his
15 delay tactics by, on several occasions, prolonging his detention further via his demands to continue
16 hearings *inter alia* for case preparation. *See Jerome Decl. p 5, Exh. 30-32.* Recently, on 6/6/2025, the
17 Immigration Judge again ordered Petitioner removed to Liberia. *See id., Exh. 33.*

18 Against this background, it is undisputed that midstream in civil detention pending removal
19 proceedings (to date approx. 64-months), Petitioner, after conceding removability, belatedly elected
20 further to prolong his detention by motion to stay removal and via an application for adjustment of
21 status. *See Decl. p 5, Exh. 28.* Petitioner is currently detained under INA § 236(c), 8 USC § 1226(c), at
22 the Mesa Verde Detention Center in Bakersfield, California. *See id.*

23 II. ARGUMENT

24 In his § 2241 sole petition ground, Petitioner falsely claimed that the U.S. Constitution (Fifth
25 Amendment) compels a detention hearing, bond, and or his immediate release. ECF 1 at 22-24.

26 As to the Fifth Amendment substantive due process, Petitioner falsely claimed that his detention
27 is punitive. *See ECF 1 at 14-17.*

28 First, Petitioner's reliance on *United States v. Salerno*, 481 U.S. 739, 755 (1987), is misplaced.

1 The Supreme Court's decision in *Salerno*, a case involving pretrial detention in a criminal matter
 2 proceeding in federal district court, has no application to civil detention in executive branch immigration
 3 court removal proceedings. *See id.* It is well-established that civil detention is a constitutionally valid
 4 aspect of the deportation process and that in the exercise of its broad power over naturalization and
 5 immigration, Congress regularly makes rules that would be unacceptable if applied to citizens. *Mathews*
 6 *v. Diaz*, 426 U.S. 67, 80 (1976); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977). In recognition that the
 7 executive branch of government has significantly more latitude in detaining non-citizens, the Supreme
 8 Court has consistently affirmed the constitutionality of detaining non-citizens for removal proceedings.
 9 *See, e.g., Demore v. Kim*, 538 U.S. 510, 523 (2003); *Carlson v. Landon*, 342 U.S. 524, 538 (1952).
 10 Thus, this EDCA court-of-custody should not invent applications or suppose analogies from the criminal
 11 detention setting at least because the Bail Reform Act is not even remotely analogous to detention under
 12 § 1226(c). *See United States v. Jennings*, 960 F.2d 1488, 1491 (9th Cir. 1992) ("The judiciary does not
 13 have a license to intrude into the authority, powers and functions of the executive branch, for judges are
 14 not executive officers, vested with discretion over law enforcement policy and decisions.").

15 Second, contrary to Petitioner's claim, citing *Demore*, that his detention is punitive in substantive
 16 violation of the Fifth Amendment, *Demore* does not support that any length assessment of civil
 17 detention may be punitive. To the contrary, in *Demore*, the Supreme Court found even prolonged
 18 mandatory detention during civil removal proceedings did not violate the U.S. Constitution's due
 19 process safeguards. 538 U.S. at 530-31. In recognizing "mandatory" detention pending removal
 20 proceedings may be prolonged, the Supreme Court in *Demore* flatly rejected a rule of compelled
 21 detention hearing within a fixed time.² *Id.* Accordingly, the U.S. Constitution, including its Fifth
 22 Amendment, does not require the United States to release a non-citizen during the pendency of removal
 23 proceedings when the non-citizen, as in this case, has committed a qualifying crime mandating
 24 detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018) (Supreme Court rejecting the Ninth
 25

26 ² In *Demore*, while the Supreme Court recognized that mandatory detention — such as under 8
 27 U.S.C. § 1226(c) — normally lasts for a "limited period" of time, the Supreme Court also held that
 28 mandatory detention could run for a much longer period while still being constitutional—for instance,
 where, as in this case, the non-citizen himself took actions to continue and lengthen his removal
 proceedings. 538 U.S. at 531.

1 Circuit's interpretation that 8 U.S.C. § 1226(c) included an implicit time limit on the length of
 2 mandatory detention).

3 And third, Petitioner's reliance on *Zadvydas v. Davis*, 533 U.S. 678, 697 (2001), is wrong. In
 4 *Zadvydas*, the Supreme Court addressed a challenge to prolonged detention under 8 USC § 1231(a) by
 5 non-citizens who had been ordered removed by the government and all administrative and judicial
 6 review was exhausted, but their removal could not be effectuated because their designated countries
 7 either refused to accept them or the United States lacked a repatriation treaty with the receiving country.
 8 In *Zadvydas*, the Supreme Court narrowly explained that § 1231(a) does not authorize indefinite
 9 detention and § 1231(a) "limits an alien's post-removal-period detention to a period reasonably
 10 necessary to bring about that alien's removal from the United States." *Zadvydas*, 533 U.S. at 689.
 11 Further, following *Zadvydas*, *i.e.*, the Supreme Court's holding of 6-months as presumptively reasonable
 12 in the narrow context of § 1231(a) detention, a non-citizen – again proceeding under § 1231(a) -- is still
 13 not entitled to release unless "there is no significant likelihood of removal in the reasonably foreseeable
 14 future." *Id.* at 701. By contrast, in this case, Petitioner is not held under § 1231(a) and, for Petitioner, at
 15 least based on the recent 6/6/2025 Immigration Judge's order of removal, there is great likelihood of
 16 removal in the foreseeable future when removal proceedings conclude. In fact, Petitioner's immigration
 17 court removal proceedings have reasonably moved forward despite Petitioner's untimely motion to stay
 18 removal and midstream application for adjustment of status. *See* Decl. 5, Exh. 28.

19 As to Fifth Amendment procedural due process, Petitioner falsely claimed constitutional
 20 violation. *See* ECF 1 at 17-20. *See e.g. Keo v. Warden-Mesa Verde ICE Processing Center*, 2025 WL
 21 1029392 (E.D. Cal., 2022 Apr. 7, 2025) (stating "the Supreme Court soundly rejected this facial
 22 challenge in *Jennings*, 583 U.S. at 304"), citing *Riego v. Scott*, 2025 WL 660535, at *2 (E.D. Cal. Feb.
 23 28, 2025). Further, Petitioner misleads this EDCA court-of-custody in his demand for invention of a
 24 slippery slope of multi-factor balancing under *Mathews v. Edridge*, 424 U.S. 319 (1976).

25 First, multi-factor balancing to analyze Petitioner's § 1226(c) statutorily compelled civil
 26 detention is unsupported by Supreme Court authority. Indeed, the Supreme Court has not adopted a
 27 multi-factor balancing test (*e.g.*, *Mathews*) for constitutional challenge to civil detention in removal
 28 proceedings. *See Dusenbery v. United States*, 534 U.S. 161, 168 (2002) ("[W]e have never viewed

Mathews as announcing an all-embracing test for deciding due process claims."). *Accord Demore*, 538 U.S. at 513; *Jennings*, 138 S. Ct. at 842, 846, 847–48. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022) (stating “the [Supreme] Court has recently backed away from multi-factorial “grand unified theor[ies]” for resolving legal issues”). *See also Hart v. Massanari*, 266 F.3d 1155, 1171 (9th Cir. 2001) (“A decision of the Supreme Court will control that corner of the law unless and until the Supreme Court itself overrules or modifies it. Judges of the inferior courts may voice their criticisms but follow it they must.”).

Second, this EDCA court-of-custody should follow its own precedent rejecting utilization of a multi-factor balancing (*Mathews*) test to assess so-called as-applied due process violation claims. Specifically, in *Keo*, this court-of-custody, as follows, rejected such multi-factor balancing.

[T]his Court finds the threshold question in considering Petitioner's claims of unreasonably prolonged detention under § 1226(c) without a bond hearing is whether Petitioner's continued detention serves the purported immigration purpose and has a definite termination point, as opposed to any “balancing test” to determine whether procedural due process is due based largely on the length of Petitioner's detention without a bond hearing. *See Perez-Cortez v. Mayorkas*, 2022 WL 1431833, at *3 (D. Nev. May 4, 2022) (denying petition because detention under § 1226(c) “is mandatory, and [petitioner] is not being detained indefinitely,” rather, petitioner remains detained because he is still litigating his order of removal); *Banyee*, 115 F.4th at 933-34 (“What is important is that, notwithstanding a delay, deportation remains a possibility.”).

Keo, 2025 WL 1029392. In rejecting multi-factor balancing, this court-of-custody followed *Banyee v. Garland*, 115 F. 4th 928, 933 (8th Cir. 2024), quoting *Demore*, 538 U.S. at 527. In *Banyee*, the Eighth Circuit refused to conduct multi-factor balancing under *Mathews* and held that no bond hearing is required because “the government can detain an alien for as long as deportation proceedings are still pending.” *Banyee*, 115 F. 4th at 933. Thus, following this court-of-custody’s own precedent, this court-of-custody is not permitted, in ruling on a § 2241 petition, to evaluate the proceedings in the immigration court. *Keo*, 2025 WL 1029392. Rather, this court-of-custody is permitted to ask only one question: are deportation proceedings ongoing? If the answer is affirmative, as in this case, then petitioner's detention is *per se* constitutional, and the § 2241 petition must be denied. *See id.*

Third, focusing on Petitioner’s demand for an order directing a compulsory bond hearing or immediate release based solely on his length of detention in civil removal proceedings, Petitioner again is wrong. *See* ECF 1 at 17-18. *See also, supra*. The length of detention in civil removal proceedings is

1 not a dispositive factor in assessing merits for compulsory detention hearing or compelled release. *Keo*,
2 2025 WL 1029392 (following the Eighth Circuit’s *Banyee* holding that “nothing suggests that length
3 determines legality”). Indeed, in *Keo*, this court-of-custody found “[t]o the contrary, what matters is that
4 detention pending deportation has a definite termination point — deporting or releasing the alien —
5 making it materially different from the potentially permanent confinement authorized by other statutes.”
6 *Id.* (cleaned up) citing *Banyee*, 115 F.4th at 932, and *Zadvydas v. Davis*, 533 U.S. 678, 697 (2001).
7 Additionally, in *Keo*, 2025 WL 1029392, this court-of-custody expressly followed *Martinez v. Clark*,
8 2019 WL 5962685, at *1 (W.D. Wash. 2019), which held “[d]ue process doesn’t require bond hearings
9 for criminal aliens mandatorily detained under § 1226(c)—even for prolonged periods.”

10 And fourth, through a steady progression of immigration court and (untimely) Board of
11 Immigration appellate proceedings, here Petitioner is properly detained in furtherance of his own goal to
12 challenge his removal. In fact, during his civil detention, Petitioner’s immigration court proceedings
13 were reopened at his belated request, after he voluntarily sought and obtained a stay of removal from the
14 BIA, to allow an application for adjustment of status, which was denied recently by the Immigration
15 Judge. By contrast, there is no evidence his detention during his civil removal proceedings is motivated
16 for punitive reasons or that his detention otherwise fails to serve immigration purposes. *See Demore*,
17 538 U.S. at 533. Against this background, Petitioner’s mandatory detention continues to serve
18 legitimate congressionally mandated goals with a definite end in sight: the conclusion of removal
19 proceedings.

20 Moreover, even if this court-of-custody were to apply multi-factor balancing, *arguendo*,
21 Petitioner’s claim is a failure.

22 Petitioner has been detained under § 1226(c) in consideration of his undisputed qualifying
23 crimes. Under *Mathews* so-called multi-factor balancing, this court-of-custody must give weight to this
24 criminal background, in addition to the process Petitioner received during his detention. In *Demore*, the
25 Supreme Court recognized government interests justifiably concerned that deportable aliens who are not
26 detained may engage in crime and fail to appear for their removal hearings. The Supreme Court
27 explained that such persons under mandatory detention may be detained for the period necessary for
28 their removal proceedings. 538 U.S. at 513. The Ninth Circuit has similarly recognized safeguarding

1 the community as the legitimate purpose of detention pending removal proceedings. *See Prieto-Romero*
2 *v. Clark*, 534 F.3d 1053, 1062-65 (9th Cir. 2008). Further, this court-of-custody must give weight to
3 Petitioner's own delaying tactics and immigration court demands (*e.g.*, himself prolonging resolution of
4 his applications for relief from removal) which extended his detention. *Rodriguez Diaz v. Garland*, 53
5 F.4th 1189, 1206-07 (9th Cir. 2022). Thus, even if this court was to overreach and was to invent a
6 balance of interests in the immigration court context, Petitioner's liberty constraint (detention) has not
7 been extraordinarily long while the United States' interests remain strong, including as considered under
8 § 1226(c).

9 III. CONCLUSION

10 Petitioner's mandatory detention continues to serve legitimate congressionally mandated goals,
11 and his detention has a finite end in sight: the conclusion of removal proceedings. Accordingly, it is not
12 punitive, it is not extraordinary, and it does not violate due process.

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14 Dated: June 16, 2025

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