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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

FERNANDO PICHARDO MEDINA, Petitioner, **v.** **LAURA HERMOSILLO,[1] *et al.*,** Respondents.	**Case No. 3:25-cv-02233-MC** **RESPONSE TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS**

[1] For "core" habeas challenges brought under 28 U.S.C. § 2241, that is, challenges to present physical custody, the only proper respondent is the immediate custodian of the habeas petitioner, "not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). The United States Attorney General, the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), the Secretary of the Department of Homeland Security ("DHS"), and the U.S. Department of Justice are not proper respondents to this core habeas petition because none of those officials has any immediate responsibility for Petitioner's detention. *See id.* at 440 n.13 ("[T]he proper respondent is the person responsible for maintaining—not authorizing—the custody of the prisoner.").

Respondents hereby respond to Petitioner's petition for writ of habeas corpus ("petition"), ECF No. 1.[2] This response is supported by the Declarations of Michael DeSantos ("DeSantos Decl.") and Rita Soraghan ("Soraghan Decl.") and exhibits. For the following reasons, the Court should dismiss the habeas petition for lack of subject matter jurisdiction or, in the alternative, deny the petition.

INTRODUCTION

Petitioner seeks habeas relief following his arrest by immigration authorities. In his petition for writ of habeas corpus, Petitioner challenges his stop and arrest under the Fourth Amendment to the United States Constitution and challenges his detention under the due process clause of the Fifth Amendment. The Court should dismiss the petition for lack of jurisdiction because the petitioner's removal proceedings have commenced, divesting this court of jurisdiction. Even if the Court has jurisdiction over the habeas petition, the Court should deny the petition. First, Petitioner's claims of unlawful stop and arrest do not sound in habeas. Second, the government had reasonable suspicion and probable cause to stop and arrest Petitioner. Third, Petitioner's due process claim fails because his detention is

[2] Petitioner also filed a motion for temporary restraining order, ECF No. 2, seeking (1) an immediate order barring Respondents from removing Petitioner from Oregon or Washington without notice to and approval by the Court and (2) an order to show cause why the petition should not be granted within three days. Motion at 1–2. Because the relief Petitioner seeks has been ordered in part in Court's December 3, 2025, order, ECF No. 6, Respondents do not respond to the motion for temporary restraining order but instead focus this response on the merits of the petition for habeas relief.

proper under 8 U.S.C. § 1225(b) or 8 U.S.C. §1226(a), and Petitioner is afforded due process protections in immigration removal proceedings.

FACTUAL BACKGROUND

On December 3, 2025, a U.S. Customs and Border Protection ("CBP") immigration enforcement team—Alpha Team 1—received intelligence from CBP's National Targeting Center regarding an enforcement "target" who had a conviction for unlawful possession of methamphetamine and had been ordered removed by an immigration judge but who remained in the United States unlawfully. DeSantos Decl. ¶ 10. The target package included a photo of the target and the target's address (including his apartment number) in Beaverton, Oregon. *Id.*

At around 5 a.m., Alpha Team 1, including Special Operations Supervisor Michael DeSantos, went to the address identified for the target. *Id.* ¶ 11. The team sat in three separate cars to conduct surveillance near the apartment complex and watch for anyone leaving the specific apartment who resembled the target. *Id.*

Around 7:45am, two special response team officers in another car observed someone come out of the target's apartment. *Id.* ¶ 12. The officers relayed over a CBP radio that the person who walked out of the apartment appeared to resemble the target, but they were not sure because the photo of the target was from 2006, and it looked like maybe the target gained some weight since then. *Id.* It was dark outside in the early morning hours, it was raining, and the officers observing the target were about 20 to 40 yards away from him. *Id.*

According to Supervisor DeSantos, it appeared that the subject identified one of the visible cars CBP was using because, although the subject went to get into his van and started it up, he then decided to go back into his apartment. *Id.* ¶ 13. Supervisor DeSantos observed the subject look through the blinds of his apartment window a few times, "which made it seem like he was waiting for us to leave." *Id.* Supervisor DeSantos was in the car that appeared to have been identified by the subject, and advised the other officers that he would move out of sight and to let him know when the subject they believed to be the target came out of the apartment again. *Id.* After a few minutes DeSantos heard from other officers that the subject was moving to his van. *Id.* DeSantos pulled the car around back of the subject's van so he could not back up and put red and blue lights on to initiate a stop. *Id.* Other team members were parked on the street outside the apartment complex and walked up to the van. *Id.*

Supervisor DeSantos started to get out of his car to initiate the stop. *Id.* ¶ 14. He was wearing plain clothes with a tactical vest that had the "POLICE" identifier on the front and back. *Id.* Before he could reach the driver's side of the subject's van, the subject began to run. *Id.* The subject exited his van and ran across the hood of his vehicle to try to escape. *Id.* DeSantos ran after him and slipped on the wet ground. *Id.* DeSantos was able to grab the subject, and they hit the side of another vehicle that was parked in the apartment complex. *Id.* DeSantos asked the subject to show his hands, but he would not. *Id.* The subject tried to keep his hands under his body so that DeSantos could not see them. *Id.* DeSantos was worried that the subject could have a weapon or may try to harm the officers because the subject ran away and refused to show his hands. *Id.* DeSantos also believed that if he did not secure the subject's hands, he would run off, and the officers would not be able to identify or find him again. *Id.* After struggling with him, DeSantos was able to get the subject's arms out and placed him in handcuffs. *Id.*

The officers put the subject into the back of DeSantos's vehicle and drove about a mile down the road to a quieter and safer area away from the public where they asked the subject to identify himself, conducted an immediate pat down, and gathered any property that he had on him, including his wallet and ID. *Id.* ¶ 15. Another officer in the car asked if the subject would need medical attention, and he declined. *Id.* After this question, the subject did not answer any more questions. *Id.*

The subject's ID said that his name was Fernando Pichardo Medina, which did not match the target's name. *Id.* To be sure, a picture of the subject's ID was taken and sent to a local CBP intelligence team to confirm whether the ID matched the target. *Id.* The local CBP intel team responded that the ID did not match the target, but that Mr. Pichardo Medina is a citizen of Mexico, and he does not have lawful status in the United States. *Id.* With this information, along with the conclusion that Mr. Pichardo Medina could be a flight risk or a danger to the community based on the encounter, the officers decided to bring Mr. Pichardo Medina, to the Portland ICE facility to process him for removal. *Id.*

DeSantos and two other officers transported Mr. Pichardo Medina to the Portland ICE facility. *Id.* ¶ 16. At the facility, ICE Enforcement and Removal Operations ("ERO") officers came out of the building to begin the process to take custody of Mr. Pichardo Medina. *Id.*

DeSantos prepared a narrative to include in Mr. Pichardo Medina's Form I-213, Record of Deportable/Inadmissible Alien about the events that led up to his arrest. *Id.*; *see* Soraghan Decl. ¶ 5, Ex. 2. DeSantos gave the narrative to ICE ERO who was then responsible for completing the I-213 and signing it. DeSantos Decl. ¶ 16. When DeSantos arrived at the Portland ICE Facility, he also completed a Form I-200, Warrant for Arrest of Alien for Mr. Pichardo Medina. *Id.*; *see* Soraghan Decl. ¶ 6, Ex. 3. The Form I-200 attests that DeSantos determined there was probable cause for Mr. Pichardo Medina's arrest.[3] *Id.* ICE then took custody of Mr. Pichardo Medina and completed processing. *Id.* ¶ 17.

ICE ERO prepared a Notice to Appear ("NTA") for filing with the immigration court charging Mr. Pichardo Medina as removable. *Id.* ¶ 18; Soraghan Decl. ¶ 4, Ex. 1. The NTA was served on Petitioner on December 3, 2025, and filed with the immigration court on December 10, 2025, which commenced removal proceedings. *Id.*

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[3] Even though this form is called "Warrant for Arrest," it can be used in several ways. According to Officer DeSantos, sometimes it is completed before an arrest on a specific target, but other times it is used to confirm that probable cause existed for a warrantless arrest. DeSantos Decl. ¶ 16.

LEGAL STANDARD

"The district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute[.]" *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day[.]" *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). To warrant a grant of habeas corpus, a petitioner must demonstrate that his custody violates the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3).

ARGUMENT

I. The Court lacks subject matter jurisdiction over Petitioner's claim for unlawful stop and arrest.

Congress has explicitly divested district courts of jurisdiction over habeas petitions when the claim arises from an action to remove an alien. In the Immigration and Nationality Act, Congress clearly set out to streamline judicial review of immigration cases. *See Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 233 (2020). In fact, Congress saw fit to limit the jurisdiction of federal courts to review any law or fact arising from immigration court cases except through the "petitioner for review" process:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have

> jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9); *see also* 8 U.S.C. § 1252(a)(5) ("[A] petition for review . . . shall be the sole and exclusive means for judicial review of an order of removal . . . .").

Congress subsequently added language to explicitly prohibit habeas review in removal proceedings:

> Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9) (2007).

The Supreme Court has termed 8 U.S.C. § 1252(b)(9) the "zipper clause," explaining that the statute's purpose "is to consolidate 'judicial review' of immigration proceedings into one action in the court of appeals[.]" *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (citations and internal quotations omitted). The Ninth Circuit has described the zipper clause and 8 U.S.C. § 1252(a)(5) as containing "mechanisms that ensure immigrants receive their 'day in court.'" *Id.* (quoting *Singh v. Gonzales*, 499 F.3d 969, 979 (9th Cir. 2007)). The zipper clause read in conjunction with 8 U.S.C. § 1252(a)(5) does not divest a noncitizen of review but rather channels review to the appropriate federal court of appeals. *Id.* "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any issue—whether legal or factual—arising from any removal-related activity can be reviewed only through the [Petition for Review] process." *Id.* While claims "collateral to, or independent of" the removal process are still subject to habeas review, "[w]hen a claim by an alien, however it is framed, challenges the procedure and substance of an agency determination that is 'inextricably linked' to the order of removal, it is prohibited by section 1252(a)(5)." *Id.* at 1032–33 (quoting *Martinez v. Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012)). If an alien is contending that the evidence the Government relies upon to support his removability should be suppressed, this claim can only be reviewed by the United States Court of Appeals through a petition for review after exhausting the administrative process.

The decision to arrest someone for immigration violations is inextricably linked to the decision to pursue an order of removal. A tribunal cannot review the legality of the arrest without reviewing "questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States." 8 U.S.C. § 1252(b)(9). Federal courts are not barred from reviewing these laws and facts, but that review must be taken up through the "petition for review process," not through habeas. *See* 8 U.S.C. § 1252(a)(5). Put another way, this Court could not address whether the arrest was unlawful without opining on the removal proceedings themselves, an action that only the appropriate federal court of appeals could undertake. *See* 8 U.S.C. § 1252(b)(9).

Here, Petitioner's assertion that his stop and arrest violated the Fourth Amendment is inextricably linked to "questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien . . . ." 8 U.S.C. § 1252(b)(9). An immigration judge has sole and exclusive jurisdiction over immigration proceedings once, as here, an NTA has been filed. 8 U.S.C. § 1229a(a)(3); 8 C.F.R. 1003.14. The Ninth Circuit has made clear that it does not matter when a final order of removal is issued. *J.E.F.M.*, 837 F.3d at 1029. Section 1252(b)(9) provides that aliens cannot "bypass the immigration courts and directly proceed to district court," but rather "must exhaust the administrative process before they can access the federal courts" when their claims arise from removal proceedings. *Id.* (requiring exhaustion for a class of immigrants "at various stages of the removal process" preceding the issuance of a final removal order, including aliens "waiting to have their first removal hearing").

Accordingly, only an immigration judge can decide if DHS's decision to commence proceedings based on evidence obtained during the arrest violates the Fourth Amendment. *Cf. Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 674 (BIA 2022) (dismissing noncitizen's motion to suppress and terminate removal proceedings where there was no prima facie case of a Fourth Amendment violation let alone an egregious one). This Court is without jurisdiction to decide Petitioner's challenge to an unlawful arrest. *See Marvan v. Slaughter*, No. 6:25-cv-00049-DLC, at *10–11 (D. Mont. July 15, 2025).

II. Petitioner's claim for unlawful stop and arrest does not sound in habeas.

The writ of habeas corpus "simply provide[s] a means of contesting the lawfulness of restraint and securing release." *Thuraissigiam*, 591 U.S. at 117; *see* *also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("It is clear . . . from the common-law history of the writ . . . that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody."). "A writ of habeas corpus is not like an action to recover damages for an unlawful arrest or commitment, but its object is to ascertain whether the prisoner can lawfully be detained in custody; and if sufficient ground for his detention by the government is shown, he is not to be discharged for defects in the original arrest or commitment." *U.S. ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 158 (1923).

The principle that defects in an arrest do not warrant habeas relief extend to immigration arrests. As the Supreme Court has made clear, "regardless of how the [immigration] arrest is effected, deportation will still be possible when evidence not derived directly from the arrest is sufficient to support deportation." *I.N.S. v. Lopez-Mendoza*, 468 U.S. 1032, 1043 (1984). This is because "[t]he 'body' or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred." *Id.* at 1039. "The mere fact of an illegal arrest has no bearing on a subsequent deportation proceeding." *Id.* at 1040.

It follows that claims of unlawful immigration arrest "are not appropriately raised in a habeas petition." *L-J-P-L- v. Wamsley*, No. 3:25-cv-01390-IM, 2025 WL 2430268, at *6 n.3 (D. Or. Aug. 22, 2025); *see also Streeter v. Craven*, 418 F.2d 273, 274 (9th Cir. 1969) ("[D]efects in an arrest are not cognizable in habeas corpus . . .

."); *H.N. v. Warden, Stewart Det. Ctr.*, No. 7:21-CV-59-HL-MSH, 2021 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) (finding that Petitioner was not entitled to habeas relief even if his immigration stop was unlawful because identity is never suppressible in immigration proceedings); *Rodrigues De Oliveira v. Joyce*, No. 2:25-cv-00291-LEW, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) ("Petitioner's argument that an illegal arrest automatically results in an illegal detention is misguided.").

Petitioner seeks release from custody, in part, based on allegations that he was stopped without reasonable suspicion and arrested without probable case. *See* Pet. ¶¶ 47–49. However, the appropriate remedy for those claims is not immediate release from custody, and therefore they are not cognizable in habeas. *See Buriev v. Warden, GEO, Broward Transitional Ctr.*, No. 25-cv-60459, 2025 WL 2763202, at *3 (S.D. Fla. Sept. 26, 2025) (denying habeas petition for claim that immigration officials unlawfully arrested petitioner "without issuing a warrant").

Because Petitioner is unlawfully present in the United States, ICE has the authority to subject him to removal proceedings and detain him. 8 U.S.C. §§ 1229a(a)(1)–(2), 1226(a), 1225(b)(2). How the stop was carried out does not invalidate Petitioner's detention because identity is never suppressible. *See U.S. ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 158 (1923); *Lopez-Mendoza,* 468 U.S. at 1039; *United States v. Guzman-Bruno*, 27 F.3d 420, 421–22 (9th Cir. 1994); *Hoonsilapa v. INS*, 575 F.2d 735, 738 (9th Cir. 1978) ("We hold that there is no sanction to be applied when an illegal arrest only leads to discovery of the man's identity and that merely leads to the official file."), *modified by* 586 F.2d 755 (9th Cir. 1978).

Habeas is simply not the vehicle to challenge a purportedly unlawful arrest. *L-J-P-L-*, 2025 WL 2430268, at *6 n.3; *Bilokumsky*, 263 U.S. at 158. Accordingly, the Court should deny the writ because Petitioner's challenge to his stop and arrest does not sound in habeas.

III. Petitioner's stop and arrest were supported by reasonable suspicion and probable cause.

Even if the Court concludes that it has jurisdiction over Petitioner's habeas petition, the Government did not violate Petitioner's Fourth Amendment rights—much less commit an egregious violation. The Court should deny the claim because officers had reasonable suspicion to stop Petitioner and, during the course of that stop, developed probable cause to make the arrest.

"The Immigration and Nationality Act authorizes immigration officers to 'interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States.'" *Noem v. Vasquez Perdomo*, No. 25A169, 2025 WL 2585637, at *1 (U.S. Sept. 8, 2025) (Kavanaugh, J., concurring in grant of application for stay) (quoting 66 Stat. 233, 8 U.S.C. § 1357(a)(1)). "Immigration officers 'may briefly detain' an individual 'for questioning' if they have 'a reasonable suspicion, based on specific articulable facts, that the person being questioned ... is an alien illegally in the United States.'" *Id.* (citing 8 C.F.R. § 287.8(b)(2) (2025); *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *United States v. Arvizu*, 534 U.S. 266, 273 (2002). "The reasonable suspicion inquiry turns on the 'totality of the particular circumstances.'" *Id.* (quoting *Brignoni-Ponce*, 422 U.S., at 885, n. 10; *Arvizu*, 534 U.S., at 273). In *U.S. v. Rodriguez*, 975 F.2d 592, 595 (9th Cir. 1992), the Ninth Circuit held that "[r]easonable suspicion is an individualized inquiry that must be founded upon a particularized and objective basis for suspecting the particular person stopped."

Further, "[u]nder the Fourth Amendment, a warrantless arrest requires probable cause." *United States v. Lopez*, 482 F.3d 1067, 1072 (9th Cir. 2007). Under this objective standard, "officers must have knowledge or reasonably trustworthy information sufficient to lead a person of reasonable caution to believe that an offense has been or is being committed by the person being arrested." *Id.* If placing someone under arrest without a warrant, an immigration officer must have probable cause that a person is "likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995).

Petitioner's initial stop was based on reasonable suspicion that Petitioner was someone who did not have lawful status to be present in the United States, who had a criminal history, and who remained in the United States after he was previously ordered removed. Petitioner resembled the target of the arrest and was exiting the target's address. Petitioner then appeared to attempt to avoid law enforcement by going back into the apartment, looking through the window, and waiting for law enforcement to leave. When Petitioner left the apartment again and encountered law enforcement, he ran. He refused to show his hands after he was asked. Under these facts, the officers' suspicion was reasonable, was based on a totality of the circumstances, and was based on an individualized inquiry.

Petitioner was then placed in the back of the officers' vehicle and taken about a mile down the road to a safer area away from the public so his identity could be confirmed. The officers asked Petitioner's identity, conducted a pat down search for identification, and located his ID. The name on the ID—Fernando Pichardo Medina—did not match the name of the original target. To verify Petitioner's identity, his ID information was sent to a local CBP intel team. The intel team responded that the ID did not match the target, but that Petitioner is a citizen of Mexico, and he does not have lawful status in the United States. Although law enforcement did not have a warrant for his arrest, they did have probable cause to believe that he was in the country illegally and, based on their encounter, that he may attempt to flee before a warrant could be obtained.

For these reasons, Petitioner's stop was supported by reasonable suspicion and his arrest was supported by probable cause. Accordingly, Petitioner's stop and arrest did not violate the Fourth Amendment.

IV. Petitioner's detention is lawful under 8 U.S.C. § 1225(b) or, in the alternative, 8 U.S.C. § 1226(a).

To obtain habeas relief, Petitioner must prove that his custody violates the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2241. Petitioner alleges that Respondents violated his due process rights under the Fifth Amendment to the United States Constitution because his detention was "not based on a rational and individualized determination of whether [he] should be detained based on individual facts and circumstances pertaining to whether [he] was a flight risk or danger to the community." Pet. ¶ 52. Petitioner's detention is lawful under 8 U.S.C. § 1225(b) or, alternatively, 8 U.S.C. § 1226(a).

Under 8 U.S.C. § 1225(b)(2), a noncitizen "who is an applicant for admission" is subject to mandatory detention pending full removal proceedings "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens "shall be detained for a proceeding under section 1229a of this title"). The term "applicant for admission" includes any alien who "has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters)." 8 U.S.C. § 1225(a)(1). Thus, under the plain language of the statute, aliens such as Petitioner who enter the United States without admission must be detained during the pendency of immigration proceedings. *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) ("[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'") (citing *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018)); *see Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding that noncitizens who are present in the United States without admission and are arrested on a warrant are subject to section 1225(b)(2)(A)).

In the alternative, under 8 U.S.C. § 1226(a), DHS may, in its discretion, detain a noncitizen during removal proceedings, release them on bond, or release them on conditional parole. By regulation, immigration officers can release a noncitizen if they demonstrate that they "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8).

DHS "at any time may revoke a bond or parole authorized under subsection (a), rearrest the noncitizen under the original warrant, and detain the alien." 8 U.S.C. § 1226(b); *see also* 8 C.F.R. §§ 236.1(c)(9), 1236.1(c)(9) ("When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director [and certain other federal officers] in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and canceled.").

When DHS takes a noncitizen into custody, the person can request a custody redetermination (*i.e.,* a bond hearing) by an immigration judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the immigration judge, as an initial matter, determines whether the noncitizen is detained pursuant to 8 U.S.C. § 1226(a) and therefore eligible for custody redetermination. If the immigration judge makes such a finding, the immigration judge may continue detention or release the noncitizen on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1).

Here, the arresting officer made a reasonable determination, in light of the facts collected during an appropriate investigation, that Petitioner presented a flight risk. Petitioner attempted to flee when confronted by officers. He was chased and, when he was apprehended, he refused to show his hands. Based on these facts, law enforcement reasonably concluded that Petitioner presented a flight risk, and therefore detained him. *See* 8 U.S.C. § 1357(a)(2) (providing that warrantless arrest may be made if the officer has "reason to believe that the alien . . . is likely to escape before a warrant can be obtained for his arrest").

In his removal proceedings in immigration court, Petitioner will have due process right, including the right to assert claims for immigration relief, as well as the right to assert the constitutional claims raised in the instant habeas petition. Petitioner will have the right to appeal an unfavorable immigration-judge decision to the Board of Immigration Appeals ("BIA"), and there are regulatory stay provisions that prevent execution of removal order while an appeal is pending before the BIA. 8 C.F.R. § 1003.6(a). Petitioner also has the opportunity to file a request for a custody redetermination hearing with the immigration court, at which he may present any legal arguments contesting DHS's detention determination to the Immigration Judge along with any evidence in support of a request for release.

Accordingly, the Court should deny the habeas petition. And, as discussed *supra*, he will have the opportunity to have all his claims reviewed by a federal court through the "petition for review" process.

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CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner's petition for habeas relief.

Respectfully submitted this 11th day of December, 2025.

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