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SARFARAZ MOHAMMED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SARFARAZ MOHAMMED,

Petitioner,

v.

RON MURRAY, Warden, Mesa Verde ICE
processing center; POLLY KAISER, Acting
Field Office Director of the San Francisco
Immigration and Customs Enforcement
Office; TODD LYONS, Acting Director of
United States Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of
the United States Department of Homeland
Security, PAMELA BONDI, Attorney
General of the United States, acting in their
official capacities,

Respondents.

CASE NO. 1:25-cv-01761-TLN-DMC (HC)

PETITIONER'S REPLY TO RESPONDENTS'
OPPOSITION TO PETITION FOR WRIT OF
HABEAS CORPUS.

I. INTRODUCTION

Petitioner, SARFARAZ MOHAMMED ("Petitioner"), an immigration detainee under the custody of Respondents, RON MURRAY, POLLY KAISER, TODD LYONS, KRISTI NOEM and PAMELA BONDI (collectively, "Respondents"), filed this petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241, on December 5, 2021. [ECF #1]. On December 10, 2025, the Honorable Magistrate Judge Dennis M. Cota issued an order (hereinafter, "Order") directing the Respondents to file an answer/return within

1 14 days from the date of the Order. [ECF #4]. In the Order, Judge Cota confirmed that the Court had
2 “conducted a preliminary review of the petition pursuant to Rule 4 of the Rules Governing Habeas Corpus
3 Cases Under Section 2254.” The Court stated that “because [P]etitioner may be entitled to the requested
4 relief if the claimed violation of constitutional rights is proved, Respondents will be directed to show cause
5 why the writ should not be granted by filing an answer/return within 14 days of the date of this order.”
6 The Court further required Respondents include with their answer/return “any and all transcripts or other
7 documents relevant to the determination of the issues presented in the application.”
8

9 On, December 29, 2025, Respondents file their Opposition to Petition for Writ of Habeas Corpus
10 (hereinafter, “Opposition”). [ECF #8]. In their opposition, Respondents failed to include “any and all
11 transcripts or other documents relevant to the determination of the issues presented in the application” as
12 required by the Order. The Opposition also failed to show cause why the Court should not grant the writ.
13

14 **II. ARGUMENT**

15 The Court is vested with discretion and authority to either forthwith award the writ or issue an
16 order to show cause why it should not be granted, unless it appears from the petition that the petitioner or
17 person detained is not entitled thereto. *See* 28 U.S.C. § 2243. Judge Cota already made a preliminary
18 determination that Petitioner may be entitled to the requested relief if the claimed violation of
19 constitutional rights is proved. The Petition speaks for itself, and it is up to Respondents to rebut
20 Petitioner’s allegations by showing cause that they have a lawful reason to keep detaining him.
21

22 Respondents’ Opposition argues that Petitioner’s detention is mandated by statute and does not
23 violate due process. Respondents also assert that Petitioner lacks standing to bring his APA claim.
24 Respondents’ arguments are without merit.
25

26 **a. Petitioner’s Detention is not Mandated by Statute**

27 Respondents’ reading of 8 U.S.C. section 1225 is mistaken, and their reliance on the recent BIA
28 case of *Yajure v. Hurtado*, 29 I&N Dec. 216 (BIA 2025), is misplaced. They argue that Petitioner is
subject to mandatory detention and ineligible for a custody redetermination hearing before an immigration

1 judge, pursuant to 8 U.S.C. section 1225(b)(2)(A). Respondents assert that Petitioner is an “applicant for
2 admission” who is “seeking admission” and subject to mandatory detention under § 1225(b)(2)(A).
3 Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival in the United States.
4 It states that an “applicant for admission” who is “seeking admission” shall be detained for a removal
5 proceeding. *Id.* It does not apply to individuals like Petitioner, who were arrested and detained by ICE
6 after having entered and begun residing in the United States. Instead, such individuals are subject to a
7 different statute, 8 U.S.C. section 1226(a), that allows for release on conditional parole or bond. That
8 statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the
9 United States without inspection.
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12 Indeed, a recent court ruling provides for class membership of certain noncitizens, including
13 Petitioner herein. *See Maldonado Bautista v. Santa Cruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Dec.
14 18, 2025). *Maldonado* held that:

15 “Bond Eligible Class: All noncitizens in the United States without lawful status who
16 (1) have entered or will enter the United States without inspection; (2) were not or will
17 not be apprehended upon arrival; and (3) are not or will not be subject to detention
18 under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department at the
19 time the Department of Homeland Security makes an initial custody determination.”

20 Petitioner herein belongs to the class and should be eligible for, at the very least, custody
21 redetermination. Continued detention without a bond hearing is unconstitutional and is in contravention
22 of the immigration statutes.

23 **b. Petitioner’s Detention Violates Due Process**

24 1. *Petitioner’s detention violates substantive due process because he is neither a*
25 *flight risk nor a danger to the community.*

26 The Due Process Clause applies to “all ‘persons’ within the United States, including [noncitizens],
27 whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. “The
28 touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v.*
McDonnell, 418 U.S. 539, 558 (1974), including “the exercise of power without any reasonable justification

1 in the service of a legitimate government objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).
2 “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—
3 lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690. To comply with substantive
4 due process, the government’s deprivation of an individual’s liberty must be justified by a sufficient purpose.
5 Therefore, immigration detention, which is “civil, not criminal,” and “nonpunitive in purpose and effect,” must
6 be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d
7 at 994 (“[T]he government has no legitimate interest in detaining individuals who have been determined not
8 to be a danger to the community and whose appearance at future immigration proceedings can be reasonably
9 ensured by a lesser bond or alternative conditions.”). When these rationales are absent, immigration detention
10 serves no legitimate government purpose and becomes impermissibly punitive, violating a person’s substantive
11 due process rights. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable
12 relation” to the government’s interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-
13 CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding
14 petitioner may “succeed on his Fifth Amendment claim if he demonstrates either that the government acted
15 with a punitive purpose or that it lacks any legitimate reason to detain him”). The Supreme Court has
16 recognized that noncitizens may bring as-applied challenges to detention, including so-called “mandatory”
17 detention. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring) (“Were there to be an
18 unreasonable delay by the INS in pursuing and completing deportation proceedings, it could become
19 necessary then to inquire whether the detention is not to facilitate deportation, or to protect against risk of
20 flight or dangerousness, but to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019)
21 (“Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges— that is,
22 constitutional challenges to applications of the statute as we have now read it.”).

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Petitioner, who has no criminal record and who is diligently pursuing his immigration case, is
neither a danger nor a flight risk. Therefore, his detention is both punitive and not justified by a legitimate
purpose, violating his substantive due process rights. Indeed, when Respondents chose to release Petitioner

1 from custody in 2024, that decision represented their finding that he was neither dangerous nor a flight
2 risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for*
3 *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that
4 the noncitizen is not a danger to the community or a flight risk."). Nothing has transpired since to disturb
5 that finding.

6
7 *First*, because Petitioner had no criminal history, and has had no intervening criminal history or
8 arrests since his release, there is no credible argument that he is a danger to the community. *See Declaration*
9 *of Farisha Nisha* ("Nisha Decl.") [ECF No. 6]. *Second*, as to flight risk, the question is whether custody
10 is reasonably necessary to secure a person's appearance at immigration court hearings and related check-
11 ins. *See Hernandez*, 872 F.3d at 990-91. There is no basis to argue that Petitioner, who was arrested by
12 Respondents while reporting to ICE as instructed, is a flight risk. To the contrary, Petitioner diligently
13 checked-in and appeared at the ICE office when he was ordered to up until the time of his arrest. Nisha
14 Decl.

15
16 Moreover, Petitioner has a viable path toward immigration relief and a pathway to lawful
17 permanent residence, further mitigating any risk of flight. *See Nisha Decl.*; *see also Padilla v. U.S. Immigr.*
18 *and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is not a legitimate
19 concern of flight risk where plaintiffs have bona fide asylum claims and desire to remain in the United
20 States). Months prior to his arrest, Petitioner filed his application for asylum. *See Nisha Decl.* He has every
21 intention of continuing to pursue this application.

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24 2. *The government violated procedural due process by depriving Petitioner of the*
25 *opportunity to contest her arrest and detention before a neutral decisionmaker.*

26 Noncitizens living in the United States like Petitioner have a protected liberty interest in their
27 ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court "usually has held
28 that the Constitution requires some kind of a hearing before the State deprives a person of liberty or
property." *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is

1 lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*,
2 520 U.S. 143, 152 (1997) (holding that re-detention after pre-parole conditional supervision requires pre-
3 deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S.778, 782 (1973) (holding the same, in probation
4 context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

6 Accordingly, the Supreme Court has repeatedly held that individuals released from custody on
7 bond, parole, or other forms of conditional release have a protected interest in their ongoing liberty,
8 because “[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails
9 to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By whatever name, the[ir] liberty is
10 valuable and must be seen within the protection of the [Due Process Clause].” *Id.* This liberty interest also
11 applies to noncitizens, including those who have been conditionally released from immigration custody.
12 *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Petitioner thus has a protected liberty
13 interest in his freedom from physical custody.

16 **c. Petitioner Has Standing to Challenge Violations of the APA**

17 No other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion
18 requirement prior to challenging the constitutionality of an arrest or detention, or challenging a policy under
19 the Administrative Procedure Act. Prudential exhaustion is not required here because it would be futile, and
20 Petitioner will “suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim.”
21 *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further exhaustion requirements would be unreasonable.

23 **III. CONCLUSION**

24 Based on the foregoing, Petitioner respectfully requests that the Court issue a writ for habeas
25 corpus and direct Respondents to immediately release Petitioner from their custody and to not re-detain
26 him absent further order from this Court.

28 LAW OFFICES OF ASHWANI K. BHAKHRI

Dated: January 5, 2026

/s/Joseph Siguenza
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