IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Khasan Amanov,

Petitioner,

v.

Warden Rokosky, et al.,

Respondents.

No. CV-26-02343-PHX-SPL (MTM)

REPORT AND RECOMMENDATION

TO THE HONORABLE STEVEN P. LOGAN, UNITED STATES DISTRICT JUDGE:

Self-represented Petitioner Khasan Amanov, who is confined in the Eloy Detention Center, has filed a Petition for Writ of Habeas Corpus. (Doc. 1.)

I. SUMMARY OF CONCLUSION

Petitioner is subject to detention pursuant to 8 U.S.C. § 1226(a) by the Department of Homeland Security Immigration and Customs Enforcement and has been detained since March 18, 2025. An immigration judge granted him asylum on November 11, 2025, but Petitioner's immigration proceedings are ongoing because the Department of Homeland Security appealed the Immigration Judge's decision. Petitioner claims his prolonged detention violates the Fifth Amendment and is unlawful because his removal is not imminent. Petitioner requests a bond hearing or release. The Court will recommend that the Petition for Writ of Habeas Corpus be granted in part, and Petitioner be granted a bond redetermination hearing or a bond hearing in the first instance.

II. BACKGROUND

Petitioner is a native and citizen of Uzbekistan. (Doc. 1 at 15.) Petitioner entered the United States on March 18, 2025, and was detained by Immigration and Customs Enforcement. (*Id.*) Petitioner was considered subject to removal from the United States pursuant to § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA) as an "alien present in the United States without being admitted or paroled[.]" (*Id.*) On November 21, 2025, an Immigration Judge (IJ) granted Petitioner's asylum application. (Doc. 1 at 5.) The Department of Homeland Security (DHS) subsequently appealed that decision to the Board of Immigration Appeals (BIA) and the appeal remains pending. (Doc. 1 at 10.)

III. PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

In his Petition, Petitioner claims his prolonged detention violates the Fifth Amendment and is unlawful because his removal is not imminent. Petitioner requests a bond hearing or release. (Doc. 1 at 1-2.)

Respondents filed a Response on April 29, 2026. (Doc. 10.) Petitioner has not filed a reply.

IV. DISCUSSION

The district court is empowered to issue a writ of habeas corpus where an individual is held "in custody in violation of the Constitution or laws or treaties of the United States . . . ." 28 U.S.C. § 2241(c)(3). The language of § 2241 and "the common-law history of the writ" makes clear "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." *Preiser v. Rodriguez*, 411 U.S. 475 484 (1973) (noting that the writ of habeas corpus "was early recognized by [the Supreme] Court as a 'great constitutional privilege'"). The Supreme Court has made clear that § 2241 applies to noncitizens challenging their immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

Because Petitioner challenges his prolonged civil detention, the Court has jurisdiction to address the instant Petition. *See Lopez-Marroquin v. Barr*, 955 F.3d 759,

759 (9th Cir. 2020) ("[D]istrict courts retain jurisdiction under 28 U.S.C. § 2241 to consider habeas challenges to immigration detention that are sufficiently independent of the merits of the removal order . . . .").

Four statutes grant the Government authority to detain certain aliens during removal proceedings: 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), and 1231(a). *Avilez v. Garland*, 69 F.4th 525, 529 (9th Cir. 2023). An alien's place "within this statutory scheme can affect whether his detention is mandatory or discretionary, as well as the kind of review process available to him if he wishes to contest the necessity of his detention." *Id.* (quoting *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008)). Sections 1225(b) and 1226(a) are at issue in this action.

Generally, the Government's decision regarding who may enter the United States and who may stay here after entering "begins at the Nation's borders and ports of entry," and is governed by § 1225. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Under § 1225, "an alien who 'arrives in the United States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Id.* (quoting 8 U.S.C. § 1225(a)(1)).

"Section 1226 generally governs the process of arresting and detaining" aliens present in the United States if the alien falls "within one or more . . . classes of deportable aliens." *Id.* at 288. "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States.'" *Id.* (quoting 8 U.S.C. § 1226(a)). "Except as provided in [§ 1226(c)] and pending such decision, the Attorney General . . . may release the alien on . . . bond . . . or conditional parole[.]" 8 U.S.C. § 1226(a). "Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention." *Jennings*, 583 U.S. at 306 (quoting 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)). At the bond hearing an immigration judge considers whether the alien is a flight risk or danger to the community. *Avilez*, 69 F.4th at 530; *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022) ("If at this hearing the detainee demonstrates by the preponderance of the evidence that he is not 'a threat to national security, a danger to the

community at large, likely to abscond, or otherwise a poor bail risk,' the IJ will order his release." (citations omitted)).

Respondents argue that Petitioner is an "applicant for admission" under the text of § 1225 and subject to mandatory detention under § 1225(b)(2). The Court disagrees.

The record reflects that Petitioner entered the United States and thereafter encountered Immigration and Customs Enforcement and was issued a Notice to Appear charging him as removable as "an alien present in the United States without being admitted or paroled" pursuant to § 212(a)(6)(A)(i) of the INA. Petitioner was not as "an arriving alien" and applicant for admission under 8 U.S.C. § 1225(b). An IJ granted Petitioner's asylum application and DHS subsequently appealed that decision to the BIA.

Thus, based on the limited record before the Court, Petitioner is not an "arriving alien" under 8 U.S.C. § 1225 and his detention is thus governed by 8 U.S.C. § 1226(a). Petitioner should be afforded a bond redetermination hearing or bond hearing in the first instance pursuant to 8 U.S.C. § 1226(a). The Court rejects Petitioner's assertion that release is the appropriate remedy here.

V. CONCLUSION

As discussed above, the statute governing Petitioner's detention is 8 U.S.C. § 1226(a) and thus Petitioner is entitled to a hearing. The Court will recommend that the Petition be granted in part and will recommend that Respondents be ordered to hold a bond redetermination hearing or bond hearing in the first instance.

Accordingly,

IT IS RECOMMENDED that the Petition (Doc. 1) be granted in part and that Petitioner be provided a bond redetermination hearing or bond hearing in the first instance.

IT IS FURTHER RECOMMENDED that Respondents be ordered to provide Petitioner such hearing within seven (7) business days of the entry of judgment.

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IT IS FURTHER RECOMMENDED that Respondents be ordered to file a notice of compliance within three (3) days of providing Petitioner a hearing.

Dated this 29th day of June, 2026.

Michael T. Morrissey

Honorable Michael T. Morrissey
United States Magistrate Judge