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MUZAFFAR OSMANOV

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

MUZAFFAR OSMANOV,

Petitioner,

v.

JEFFREY LYNCH, Warden, Golden State Annex;

SERGIO ALBARRAN, Field Office Director of San Francisco Office of Detention and Removal, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security;

TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

MARKWAYNE MULLIN, in his Official Capacity, Secretary, U.S. Department of Homeland Security; and

TODD BLANCHE, in his Official Capacity, Attorney General of the United States,

Respondents-Defendants.

DETAINED

Case No. 1:26-cv-05344-DJC-CKD

Immigration alien number: [redacted]

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS AND ALL INJUNCTIVE RELIEF

I. INTRODUCTION

Respondents' Opposition (ECF No. 6) ("Opp.") begins with a concession that resolves this case: "This case is in the category of immigration habeas cases for which the Court has typically ordered immediate release." (Opp. at 1.) Respondents are correct. Nothing in the two pages that follow attempts to remove this case from that category, and nothing could. Respondents submit no evidence, no declaration, and no exhibit. They do not contend that Mr. Osmanov is a danger to any person or community. They do not contend that he is a flight risk. They do not dispute a single factual allegation of the verified Petition—not his release on recognizance on September 12, 2022; not his nearly four years of fully compliant liberty; not his complete absence of criminal history; not DHS's documented knowledge of, and correspondence with, his California residence; and not the total absence of notice, hearing, or individualized determination of any kind preceding his July 4, 2026 re-arrest. And Respondents say nothing at all about Count One—the Fifth Amendment pre-deprivation due process claim on which this Court and courts throughout this District have repeatedly ordered immediate release on materially identical facts.

Instead, Respondents rest their entire opposition on the theory that Mr. Osmanov is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b), supported by the two out-of-circuit decisions the Petition already addresses and by two Supreme Court decisions concerning aliens stopped at the

threshold of initial entry. This Court rejected that same theory only days ago in *Muliukov v. Lynch* 1:26-cv-05104-DJC-JDP, when it granted Count One of a materially identical petition from the same facility, ordered immediate release, and permanently enjoined re-detention absent constitutionally adequate process. (Order of July 13, 2026.) This Court likewise held in *Jose Cesar Rivas Cruz v. Chestnut*, No. 1:26-cv-2041 DJC CKD P, 2026 WL 1362610, at *2 (E.D. Cal. May 15, 2026), that § 1226 governs interior arrests. Respondents do not cite either decision, do not distinguish them, and do not ask the Court to depart from them. The result here should be the same: the writ should issue, and Mr. Osmanov should be released forthwith.

II. RESPONDENTS DISPUTE NO FACT AND OFFER NO DEFENSE OF THE PROCESS DENIED

The writ "shall…certify the true cause of the detention," and the Court is to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. Respondents' return consists of two pages, filed with an express request to "submit on this pleading alone without additional documentation or briefing." (Opp. at 1.) The record before the Court is therefore closed, and it is one-sided. Every factual allegation of the verified Petition stands uncontroverted: DHS released Mr. Osmanov on a Form I-220A Order of Release on Recognizance expressly "in accordance with section 236" of the Act (Pet. ¶ 22, Tab B); he complied with every condition of which he was aware for nearly four years (Pet. ¶¶ 25–27); he has never been arrested and has no

criminal history (Pet. ¶ 26); DHS corresponded with him at his California address and re-issued his charging documents to that address months before arresting him (Pet. ¶ 29, Tabs A, D); and ICE re-detained him on July 4, 2026 with no notice, no hearing, and no individualized finding of danger, flight risk, or changed circumstances (Pet. ¶¶ 28, 35).

On these undisputed facts, the government's burden is unmet because it is unattempted. Once the government has released a noncitizen, it may not re-arrest him "merely because he is subject to removal proceedings"; it "must be able to present evidence of materially changed circumstances—namely, evidence that the noncitizen is in fact dangerous or has become a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), aff'd, 905 F.3d 1137 (9th Cir. 2018). Respondents present no evidence of any kind. Nor do Respondents respond to Count One. The Opposition never mentions the Fifth Amendment, never engages *Mathews v. Eldridge*, 424 U.S. 319 (1976), or *Morrissey v. Brewer*, 408 U.S. 471 (1972), and never explains how a completed deprivation of an established liberty interest, effected without any pre-deprivation process, could be constitutional. Where the government declines to oppose the due process claim, courts in this District have granted the petition and ordered immediate release. *M.D. Alauddin v. Chestnut*, No. 1:26-cv-03541, 2026 WL 1346863, at *2–3 (E.D. Cal. May 14, 2026) (petition unopposed; immediate release ordered).

III. SECTION 1226(a), NOT SECTION 1225(b), GOVERNS THIS DETENTION

Respondents' sole affirmative argument—that Mr. Osmanov "entered the United States illegally" and "is thus an 'applicant for admission' who is subject to mandatory immigration detention under 8 U.S.C. § 1225(b)" (Opp. at 1)—fails three times over.

First, the government's own instruments refute it. DHS released Mr. Osmanov "in accordance with section 236" on the face of the I-220A it issued (Pet. Tab B); it charged him under INA § 212(a)(6)(A)(i) and placed him in ordinary § 240 removal proceedings, never in expedited removal (Pet. ¶ 21, Tab A); it granted him employment authorization through September 2030 (Pet. Tab C); and it prosecuted his § 240 case for nearly four years while he lived openly in the interior. The government litigated this case as a § 236 case for four years and cannot re-classify it by ipse dixit now that it prefers detention without a hearing.

Second, the weight of authority is overwhelming and runs against Respondents. Four courts of appeals have rejected the government's reading of § 1225(b)(2)(A). *Barbosa da Cunha v. Freden*, No. 25-3141-pr, 2026 WL 1146044, at *2–3 (2d Cir. Apr. 28, 2026);* Castanon-Nava v. U.S. Dep't of Homeland Sec., *2026 WL 1223250 (7th Cir. May 5, 2026);* Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami, *No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026);* Lopez-Campos

v. Raycraft, *2026 WL 1283891 (6th Cir. May 11, 2026). So has every recent decision of this District to consider the question, including this Court's.* Rivas Cruz, *2026 WL 1362610, at* 2; *Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1112 (E.D. Cal. 2025); *Morales-Flores v. Lyons*, No. 1:25-cv-01640-TLN-EFB, 2025 WL 3552841, at *2–4 (E.D. Cal. Dec. 11, 2025);* Zhunio Malla v. Warden of Golden State Annex, *No. 1:26-cv-02402-DAD-CKD, 2026 WL 1759593 (E.D. Cal. June 18, 2026);* Sagar v. Chestnut, *2026 WL 572528, at* 3–4 (E.D. Cal. Mar. 2, 2026); *Diaz Luque v. Warden, California City*, 2026 WL 1475815, at *2 (E.D. Cal. May 26, 2026). Against this, Respondents offer the two outlier decisions the Petition already addresses (Pet. ¶ 51)*—Avila v. Bondi, *2026 WL 819258 (8th Cir. Mar. 25, 2026), and* Buenrostro-Mendez v. Bondi, *2026 WL 323330 (5th Cir. Feb. 6, 2026)—which* Sagar *expressly declined to follow, 2026 WL 572528, at* 3–4, and a docket entry, *Cortes Alonzo v. Noem*, No. 1:25-cv-01519-WBS-SCR, Dkt. 14 (E.D. Cal. Nov. 17, 2025), which predates every one of the four court of appeals decisions and the great majority of this District's. Moreover, the July 2025 DHS guidance on which the mandatory-detention theory depends is stayed within ICE's San Francisco area of responsibility—which includes this District. *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025).

Third, even if § 1225(b) applied—and it does not—it would not answer Count One. The constitutional claim does not depend on the statutory label the government now prefers. The Due Process Clause applies to "all 'persons' within the United

States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent," and "once an alien enters the country, the legal circumstance changes." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Respondents' assertion that Mr. Osmanov "does not possess a right to freedom from immigration detention in any form other than the form provided by Congress" (Opp. at 1) inverts the constitutional order: Congress legislates within the limits of the Fifth Amendment, not the other way around. The form of liberty at issue here, in any event, is the one the Executive itself conferred and Mr. Osmanov relied upon for nearly four years—a protected interest that could not be extinguished without notice and a hearing. (Pet. ¶¶ 33–42.)

IV. MEZEI AND THURAISSIGIAM CONCERN ALIENS AT THE THRESHOLD OF ENTRY AND SUPPORT PETITIONER, NOT RESPONDENTS

Respondents close by invoking *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953), "reaffirmed in" *DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020). (Opp. at 2.) The page of *Mezei* Respondents cite defeats their argument. There, the Supreme Court distinguished the excludable alien detained at the threshold—Mezei himself, held on Ellis Island and "treated," for constitutional purposes, "as if stopped at the border"—from "aliens who have once passed through our gates, even illegally," who "may be expelled only after proceedings conforming

to traditional standards of fairness encompassed in due process of law." 345 U.S. at 212. Mr. Osmanov passed through the gates in September 2022, was released by DHS itself, and lived in the interior for nearly four years. He stands on the protected side of the very line *Mezei* drew. *Zadvydas*, 533 U.S. at 692–93 (distinguishing *Mezei* on this exact ground).

Thuraissigiam is no broader. It addressed an alien apprehended twenty-five yards inside the border, hours after crossing, who was placed in expedited removal under § 1225(b)(1) and who challenged the adequacy of his asylum screening—a challenge to admission, not detention. The Court was explicit that its due process holding extended only to an alien "in respondent's position," treated as "an applicant for admission" at the threshold of initial entry. 591 U.S. at 139–40 **[verify pin]**. Mr. Osmanov was never placed in expedited removal, never received a credible-fear screening, and was never the subject of any § 1225(b)(1) order—facts Respondents do not dispute. (Pet. ¶ 21.) He challenges his detention, not his admission. Courts in this District have rejected precisely this use of the entry fiction and of *Thuraissigiam* where, as here, the petitioner was never in expedited removal. *Chiguil v. Noem*, 2026 WL 983134, at *1 (E.D. Cal. Apr. 13, 2026);* Singh v. Chestnut, *2026 WL 124830, at* 2–3 (E.D. Cal. Jan. 16, 2026).

V. THE UNREBUTTED REMEDY IS IMMEDIATE RELEASE

RESTORING THE STATUS QUO ANTE

Respondents say nothing about remedy, and their opening concession—that this case sits in "the category of immigration habeas cases for which the Court has typically ordered immediate release"—answers the question. Because the violation was complete the moment Mr. Osmanov was re-detained without pre-deprivation process, a post hoc bond hearing "would condone the violation of petitioner's right to due process in the first instance." *Zhunio Malla*, 2026 WL 1759593 (adopting 2026 WL 1102941, at *4). The remedy this Court ordered in* Muliukov, *and that courts of this District have ordered on materially identical facts, is immediate release on the conditions Petitioner already held, together with an injunction barring re-detention absent advance written notice and a pre-deprivation hearing before a neutral decisionmaker at which the government bears the burden by clear and convincing evidence, with Rule 65(c) security waived.* Morales-Flores, *2025 WL 3552841, at* 7 & Order ¶¶ 2–4; *Pupykin v. Lynch*, No. 1:26-cv-04957-TLN-SCR (E.D. Cal. June 29, 2026). On a closed record containing no evidence of danger, flight risk, or changed circumstances, nothing less restores the status quo ante.

VI. CONCLUSION

For the foregoing reasons and those stated in the Petition, the Court should grant the Petition in its entirety, order Petitioner's immediate release from the Golden State Annex, permanently enjoin his re-detention absent the constitutionally required

process described in the Prayer for Relief, enjoin his transfer outside this District, and waive security under Rule 65(c).

Dated: July 17, 2026

Respectfully submitted,

/s/ Regina Jacobson

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