

1 District Judge Ricardo S. Martinez
2
3
4
5
6
7
8

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 JAVEIN JUMEL COKE,
10
11 v. Petitioner,
12 BRUCE SCOTT, *et al.*,
13 Respondents.
14

Case No. 2:25-cv-00694-RSM

RESPONSE IN OPPOSITION TO
PETITIONER'S OBJECTIONS TO THE
MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION

Noted for Consideration:
July 23, 2025

15 INTRODUCTION

16 Petitioner Javein Jumel Coke seeks release from his immigration detention or
17 alternatively a bond hearing in which the government bears the burden of justifying Coke's
18 continued detention by clear and convincing evidence. The Report and Recommendation
19 ("R&R") correctly concludes that Coke's habeas petition (Dkt. No. 1) and subsequent motion for
20 a temporary restraining (Dkt. No. 12) order should be denied. Dkt. No. 19, R&R. Coke's
21 objections to the R&R should be overruled and the R&R's recommendations be adopted by this
22 Court. Dkt. No. 21 ("Obj.").

23 Coke is not entitled to the preliminary injunctive relief or habeas relief that he seeks here.
24 Coke's objections to the R&R are premised on his disagreement with U.S. Immigration and

1 Customs Enforcement's ("ICE") representation that he is not subject to mandatory detention.
2 But Coke offers no supporting evidence that 8 U.S.C. § 1226(c)'s mandatory detention applies to
3 him – only his unsupported assertion that it does. He points to one factual error in the R&R: the
4 R&R incorrectly states that the Immigration Judge ("IJ") found that Coke's conviction
5 constituted an aggravated felony. Obj., ¶ 4 (citing R&R, at 3). Federal Respondents agree with
6 Coke that the IJ concluded that Coke was not convicted of an aggravated felony. Pet., Ex. F, at
7 ECF 67. However, this fact only supports ICE's position that Coke is not subject to mandatory
8 detention.

9 Accordingly, the R&R's conclusions are legally sound and should be adopted by this
10 Court.

11 BACKGROUND

12 Coke is subject to immigration detention pending his ongoing removal proceedings. He
13 is detained pursuant to 8 U.S.C. § 1226(a). Coke has not sought a bond redetermination hearing.
14 The U.S. Department of Homeland Security has appealed the Immigration Judge's ("IJ") grant of
15 Coke's application for deferral of removal under the Convention Against Torture ("CAT") to the
16 Board of Immigration Appeals ("BIA"). Although the IJ granted his request for CAT relief,
17 Coke's detention remains lawful. 8 C.F.R. § 208.17(c).

18 On April 17, 2025, Coke brought this litigation alleging that his detention is unlawful.
19 He subsequently filed a motion for a temporary restraining order raising the same substantive
20 arguments. Both motions have been fully briefed. The Magistrate Judge thereafter
21 recommended to this Court that Coke's motion and petition be denied because (1) Coke had
22 failed to exhaust his administrative remedies; (2) Coke had failed to demonstrate that the
23 conditions of his detention are excessive in relation to the governmental objective; and (3) Coke
24 had failed to establish that he is entitled to immediate release under *Zadvydas v. Davis*, 533 U.S.

1 678 (2001). R&R, at 9-11. In his Objection, Coke only specifically objects to the Magistrate
2 Judge's recommendation that he should be required to exhaust his administrative remedies. *See*
3 *generally* Obj. He argues that his detention is mandatory and that there are no administrative
4 remedies to exhaust. As explained below, this objection should be overruled, and this Court
5 should adopt the Magistrate Judge's recommendation denying Coke's habeas petition and
6 motion for a temporary restraining order.

7 **LEGAL STANDARD**

8 Properly lodged objections to an R&R are reviewed *de novo*. Fed. R. Civ. P. 72(b)(3);
9 *see also* 28 U.S.C. § 636(b)(1). Proper objections require "specific written objections to the
10 proposed findings and recommendations" of the Magistrate Judge. Fed. R. Civ. P. 72(b)(2); *see*
11 *also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) ("The statute makes it
12 clear that the district judge must review the magistrate judge's findings and recommendations *de*
13 *novo* if objection is made, but not otherwise.").

14 **ARGUMENT**

15 This Court should overrule Coke's objection to the R&R. Obj., ¶¶ 3, 9. The Magistrate
16 Judge correctly found that Coke should be required to prudentially exhaust his administrative
17 remedies by seeking a bond redetermination hearing before the immigration court. R&R, at 9-
18 10. Coke bases his objection on his incorrect belief that he is under mandatory detention
19 pursuant to 8 U.S.C. § 1226(c) – instead of non-mandatory detention under Section 1226(a) as
20 Federal Respondents submit. *See* Obj.; Dkt. No. 9, Mot., at 4-6. Coke's belief is incorrect and
21 unsupported. Furthermore, the appropriate forum to raise the issue of his detention authority is
22 in immigration court – not for the first time in a federal habeas action.

23 ICE detains Coke pursuant to 8 U.S.C. § 1226(a). Mot., at 4-6. Coke provides no
24 documents demonstrating that he is subject to mandatory detention. Coke does not assert that he

1 has been denied a bond redetermination hearing or that he even has requested one. *See Obj.*, ¶ 3.
2 He even cites to the IJ's decision that his conviction is not an aggravated felony, which supports
3 that he is not subject to mandatory detention. *See id.*, ¶ 4.

4 Because Coke is detained pursuant to 8 U.S.C. § 1226(a), this Court should require Coke
5 to exhaust his administrative remedies. R&R, at 9-10. This is supported by the factors in favor
6 of prudential exhaustion. R&R, at 9-10 (analyzing factors set forth in *Hernandez v. Sessions*,
7 872 F.3d 976, 988 (9th Cir. 2017)). Accordingly, this Court should adopt the R&R's finding
8 that there should be no waiver of prudential exhaustion here.

9 **CONCLUSION**

10 For the foregoing reasons, this Court should overrule Coke's objections and adopt the
11 R&R denying the habeas petition and the motion for a temporary restraining order.

12 DATED this 22nd day of July, 2025.

13 Respectfully submitted,

14 **TEAL LUTHY MILLER**
15 Acting United States Attorney

16 *s/ Michelle R. Lambert*
17 MICHELLE R. LAMBERT, NYS #4666657
18 Assistant United States Attorney
19 United States Attorney's Office
20 Western District of Washington
1201 Pacific Avenue, Suite 700
Tacoma, Washington 98402
Phone: (253) 428-3824
Fax: (253) 428-3826
Email: michelle.lambert@usdoj.gov

21 *Attorneys for Federal Respondents*

22 *I certify that this memorandum contains 861*
23 *words, in compliance with the Local Civil*
24 *Rules*

CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee in the Office of the United States Attorney for the
3 Western District of Washington and of such age and discretion as to be competent to serve
4 papers.

5 I further certify on this date, I electronically filed the foregoing with the Clerk of the
6 Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF
7 participant(s):

8 - 0 -

9 I further certify on this date, I arranged for service of the foregoing on the following non-
10 CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as
11 follows:

Javein Jumel Coke, *Pro Se Petitioner*

A# ~~██████████~~
NW ICE Processing Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

DATED this 22nd day of July, 2025.

s/ Stephanie Huert-Ramirez
STEPHANIE HUERTA-RAMIREZ, Legal Assistant
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, WA 98101
Phone: (206) 553-7970
Fax: (206) 553-4073
Email: stephanie.huerta-ramirez@usdoj.gov