IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

JOSE GUZMAN BERNAL,

Petitioner,

v.

PAM BONDI, United States Attorney General; *et al.*,

Respondent.

Case No. 3:25-cv-00092-SLG-KFR

REPORT AND RECOMMENDATION RE § 2241 PETITION

Before the Court is a filing styled as a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 ("Petition") filed by Jose Guzman Bernal ("Petitioner"), a Mexican national currently detained in Mexico.[1] Petitioner also filed an application to proceed without prepaying the filing fee,[2] a declaration with attached exhibits pertaining to his underlying criminal case,[3] and a motion for an order to show cause.[4]

The Court has reviewed the Petition and concludes that it lacks jurisdiction to grant the relief Petitioner seeks. Therefore, the Court recommends that the Petition be **DISMISSED**. If Petitioner wishes to challenge the District Court's application of the fugitive disentitlement doctrine in his pending federal criminal case, any potential relief lies instead with the Ninth Circuit Court of Appeals.

I. BACKGROUND

Petitioner is a Mexican national currently detained in Mexico while he awaits extradition to the United States on a criminal charge that has been brought against him in the U.S. District Court for the District of Alaska.[5] The Court takes judicial notice of Petitioner's pending federal

[1] Docket 1.
[2] Docket 2.
[3] Docket 4.
[4] Docket 5. In this filing, Petitioner primarily provides further factual details and argument in support of the grounds for relief raised in the Petition.
[5] Docket 1 at 2.

criminal case, *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS.[6] In February 2014, a grand jury indicted Petitioner on one count of conspiracy to distribute and possess with the intent to distribute controlled substances, in violation of 21 U.S.C. §§ 846 and 841(a)(1),(b)(1)(A).[7] According to Petitioner, he was arrested in Mexico in February 2023 and remains detained there "pursuant to a[n] [Interpol] Red Notice initiated by the U.S. government" based on the pending charge against him.[8]

In May 2024, Petitioner filed several *pro se* motions in his federal criminal case, including a motion to dismiss the indictment and a motion to vacate the United States' petition to Mexico for his extradition.[9] In October 2024, the District Court denied Petitioner's motion to dismiss without prejudice pursuant to the fugitive disentitlement doctrine, which "provides that an individual 'who seeks to invoke the processes of the law while flouting them has no entitlement to call upon the resources of the Court for determination of his claims.'"[10] In a written order, the District Court determined that Petitioner was a "fugitive" because his "active[] resist[ance]" to extradition after learning of the charge against him amounted to constructive flight.[11] The District Court thus concluded that the fugitive disentitlement doctrine applied, reasoning that "equity demands that [Petitioner] cannot simultaneously resist this Court's jurisdiction and call upon the Court to adjudicate his pre-arraignment motions."[12] In the same written order, the District Court also denied Petitioner's motion to vacate the petition for his extradition, holding that it "lack[ed] jurisdiction to vacate an extradition order currently pending on appeal in a

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[6] Judicial notice is the "court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact; the court's power to accept such a fact." BLACK'S LAW DICTIONARY (11th ed. 2019); *see also* Fed. R. Evid. 201; *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 n.3 (9th Cir. 2005) ("Materials from a proceeding in another tribunal are appropriate for judicial notice." (internal quotation marks and citation omitted)).

[7] *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS, Docket 2.

[8] Docket 1 at 1–2.

[9] *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS, Dockets 54–55.

[10] *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS, Docket 74 at 6–8 (quoting *Cordon v. Tilton*, 515 F. Supp. 2d 1114, 1119 (S.D. Cal. 2007) (quoting *Conforte v. Comm'r*, 692 F.2d 587, 589 (9th Cir. 1982))).

[11] *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS, Docket 74 at 7–8.

[12] *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS, Docket 74 at 8.

Mexican court."[13]

On April 23, 2025, Petitioner filed the instant Petition in the U.S. District Court for the Central District of California.[14] Petitioner contends that he is entitled to habeas relief because (1) the District Court's determination that he is a fugitive is "legally and factually erroneous," (2) the District Court's application of the fugitive disentitlement doctrine violates his constitutional rights to due process and access to the courts, and (3) his extradition violates the 1978 extradition treaty between the United States and Mexico.[15] Petitioner requests (1) "a writ of habeas corpus finding that Petitioner is in constructive custody under U.S. law and entitled to challenge his indictment and extradition" in his federal criminal proceeding while he is detained in Mexico, (2) a declaration that he is not a fugitive, (3) an injunction prohibiting the U.S. Department of Justice from proceeding with his extradition until he has had an opportunity to challenge his indictment and extradition in his federal criminal proceeding, and (4) an order requiring the U.S. government to "withdraw its Red Notice or modify it to reflect that Petitioner is no longer a fugitive."[16]

On May 9, 2025, District Judge Serena R. Murillo issued an order transferring this case to the District of Alaska, explaining that "the proper forum with jurisdiction over a habeas challenge to an indictment is the district of indictment."[17]

II. SCREENING REQUIREMENT

A court must "promptly examine" a habeas petition.[18] "If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition."[19]

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[13] *United States v. Guzman-Bernal*, Case No. 3:14-cr-00093-SLG-MMS, Docket 74 at 8.
[14] Docket 1.
[15] Docket 1 at 2–3.
[16] Docket 1 at 3.
[17] Docket 4 at 2.
[18] Rule 4, Rules Governing Section 2254 Proceedings for the United States District Courts; *see also* L. Habeas Corpus R. 1.1(c)(2) ("Except as otherwise specifically provided by statute, rule or order of the court . . . the Rules Governing Section 2254 Cases in the United States District Courts, apply to all petitions for habeas corpus relief filed in this court.").
[19] Rule 4, Rules Governing Section 2254 Proceedings for the United States District Courts.

III. DISCUSSION

28 U.S.C. § 2241 "provides generally for the granting of writs of habeas corpus by federal courts, implementing 'the general grant of habeas authority provided by the Constitution.'"[20] The writ of habeas corpus is limited to attacks on the legality or duration of confinement.[21] Moreover, a federal defendant awaiting trial generally cannot use § 2241 to contest rulings made in their federal criminal proceeding.[22]

Here, Petitioner seeks to do just that. Petitioner takes issue with the District Court's application of the fugitive disentitlement doctrine, and its resulting refusal to adjudicate the merits of Petitioner's defenses to prosecution in his pending criminal case while he contests his extradition to the United States. Petitioner further challenges the legality of his extradition, an issue that he raised in his criminal proceeding and that the District Court declined to consider for lack of jurisdiction. Fundamentally, the relief that Petitioner requests is a reversal of those rulings and a mandate for the District Court to resolve the merits of the issues he has raised while he remains detained in Mexico. But a writ of habeas corpus is not a proper remedy for the District Court's purported errors, and so Petitioner has not alleged any cognizable claim

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[20] *Frantz v. Hazey*, 533 F. 3d 724, 735 (9th Cir. 2008 (en banc) (quoting *White v. Lambert*, 370 F. 3d 1002, 1006 (9th Cir. 2004)

[21] *See Muhammad v. Close*, 540 U.S. 749, 750 (2004) (per curiam) ("Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus[.]"); *Badea v. Cox*, 931 F.2d. 573, 574 (9th Cir. 1991) (holding that a habeas corpus proceeding is the proper mechanism for a federal prisoner "to challenge the 'legality or duration' of confinement" (citing *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973))); *see also Skinner v. Switzer*, 562 U.S. 521, 534 (2011) (observing lack of case law "in which the [Supreme] Court has recognized habeas as . . . an available [remedy] where the relief sought would 'neither terminat[e] custody, accelerat[e] the future date of release from custody, nor reduc[e] the level of custody" (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 86 (2005))); *Wilkinson*, 544 U.S. at 83 (suggesting that habeas is available only for claims that seek "invalidation (in whole or in part) of the judgment authorizing the prisoner's confinement").

[22] *Rodman v. Pothier*, 264 U.S. 399, 402 (1924) ("[T]he hearing on habeas corpus is not in the nature of a writ of error, nor is it intended as a substitute for the functions of the trial court. Manifestly, this is true as to disputed questions of fact, and it is equally so as to disputed matters of law, whether they relate to the sufficiency of the indictment or the validity of the statute on which the charge is based. These and all other controverted matters of law and fact are for the determination of the trial court."); *Jones v. Perkins*, 245 U.S. 390, 391 (1918) ("It is well settled that in the absence of exceptional circumstances in criminal cases the regular judicial procedure should be followed and habeas corpus should not be granted in advance of a trial."); *Medina v. Choate*, 875 F.3d 1025, 1029 (10th Cir. 2017) (adopting a "general rule that § 2241 is not a proper avenue of relief for federal prisoners awaiting federal trial").

under § 2241.

To the extent that Petitioner may obtain relief from the District Court's rulings in his criminal case before he is brought to trial, he must seek such relief from the Ninth Circuit Court of Appeals. The Ninth Circuit has not yet weighed in on the proper procedural mechanism for a defendant noncitizen located outside of the United States to seek review of an order applying the fugitive disentitlement doctrine. However, decisions from the Second,[23] Sixth,[24] Seventh,[25] and Eleventh Circuits[26] suggest that review may be available through either an interlocutory appeal[27] of the disputed order or a petition for a writ of mandamus.[28]

IV. CONCLUSION

Upon screening, the Court concludes that Petitioner cannot avail himself of habeas jurisdiction to seek relief from the District Court's order in his criminal proceeding denying his challenges to the indictment and his extradition. If Petitioner wishes to challenge the District

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[23] *United States v. Bescond*, 24 F.4th 759, 767 (2d Cir. 2021) (holding that appellate jurisdiction existed to review the district court's fugitive disentitlement ruling pursuant to the collateral order doctrine).

[24] *United States v. Martirossian*, 917 F.3d 883, 886–90 (6th Cir. 2019) (holding that appellate jurisdiction did not exist to review the district court's fugitive disentitlement ruling, but considering and ultimately denying the defendant's petition for a writ of mandamus).

[25] *In re Hijazi*, 589 F.3d 401, 406, 414 (7th Cir. 2009) (granting defendant's writ of mandamus for the district court, which had held in abeyance the defendant's motions to dismiss the indictment pending the defendant's appearance in the district, to promptly rule on the defendant's motions to dismiss).

[26] *United States v. Shalhoub*, 855 F.3d 1255, 1260–65 (11th Cir. 2017) (determining that appellate jurisdiction did not exist to review the district court's fugitive disentitlement ruling, but considering and ultimately denying the defendant's petition for a writ of mandamus).

[27] Ordinarily, an appeal is allowed only from a final judgment. However, there are exceptions to this rule that allow for the appeal of certain interlocutory, *i.e.*, non-final, orders.

[28] *See* 28 U.S.C. § 1651(a); *In re United States*, 884 F.3d 830, 834 (9th Cir. 2018) (discussing factors courts consider in deciding whether to grant a writ of mandamus).

Court's application of the fugitive disentitlement doctrine at this time, any potential relief lies with the Ninth Circuit Court of Appeals. The Court thus recommends that the Petition at Docket 1 be **DISMISSED**. A certificate of appealability should not issue.[29]

DATED this 26th day of June, 2025, at Anchorage, Alaska.

/s/
KYLE F. REARDON
United States Magistrate Judge
District of Alaska

NOTICE OF RIGHT TO OBJECT

Under 28 U.S.C. § 636(b)(1), a district court may designate a magistrate judge to hear and determine matters pending before the Court. For dispositive matters, a magistrate judge reports findings of fact and provides recommendations to the presiding district court judge.[30] A district court judge may accept, reject, or modify, in whole or in part, the magistrate judge's order.[31]

A party may file written objections to the magistrate judge's order within 14 fourteen days.[32] Objections and responses are limited to five (5) pages in length and should not merely reargue positions previously presented. Rather, objections and responses should specifically identify the findings or recommendations objected to, the basis of the objection, and any legal authority in support. Reports and recommendations are not appealable orders. Any notice of

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[29] *See* 28 U.S.C. § 2253(c)(1)(A); *see also Wilson v. Belleque*, 554 F.3d 816, 825 (9th Cir. 2009) ("[A] state prisoner who is proceeding under § 2241 must obtain a [Certificate of Appealability] under § 2253(c)(1)(A) in order to challenge process issued by a state court."); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (holding that a certificate of appealability may be granted only if the applicant made "substantial showing of the denial of a constitutional right," *i.e.*, showing that "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further") (internal quotations and citations omitted)). Petitioner may request a certificate of appealability from the Ninth Circuit Court of Appeals.

[30] 28 U.S.C. § 636(b)(1)(B).

[31] *Id.* § 636(b)(1)(C).

[32] *Id.*

appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the district court's judgment.[33]

[33] *See Hilliard v. Kincheloe*, 796 F.2d 308 (9th Cir. 1986).