IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAWLE GERARD SUITE,	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
CHRISTOPHER J. LAROSE, et al.,	:	NO. 25–2613
Defendants.	:	

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

On July 30, 2025, this Court ordered the warden of the Federal Detention Center (FDC) Philadelphia to show cause why Rawle Gerard Suite's Petition for a Writ of Habeas Corpus (ECF 1), should not be granted. *See* Order (ECF 6) ¶ 2. However, on July 23, 2025, *i.e.*, a week before the Court issued its Order, Suite was transferred to the Moshannon Valley Processing Center, located within the Western District of Pennsylvania.[1] Nonetheless, in accord with the Court's Order, and because Suite remains detained, the government responds to Suite's habeas petition.

I. INTRODUCTION

Petitioner Rawle Gerard Suite, a native and citizen of Trinidad and Tobago, was convicted of an aggravated felony, as defined by the Immigration and Nationality Act (INA), which means he is subject to mandatory detention under 8 U.S.C. § 1226(c), pending the outcome of his removal proceedings. Suite contends that his continued detention violates his constitutional due process rights, and he filed a habeas petition seeking either an immediate release from custody or an individualized bond hearing. ECF 1 at 5. But Suite does not meet his burden to show that his detention has become constitutionally unreasonable, and his petition should be denied.

[1] A habeas corpus petitioner alleging unconstitutional confinement and seeking release must file in the district court having jurisdiction over his custodian. *See* 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) ("for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement."); *see also Trump v. J.G.G.*, 145 S.Ct. 1003, 1005 (2025).

II. FACTS AND PROCEDURAL HISTORY

A. Suite's criminal history

Suite is subject to mandatory detention under 8 U.S.C. § 1226(c), because his conviction for wire fraud counts as an aggravated felony under the INA. *See* 8 U.S.C. § 1101(a)(43)(M)(i) ("aggravated felony" includes "an offense that … involves fraud or deceit in which the loss to the victim or victims exceeds $10,000.").

In 2017, Suite pleaded guilty in the U.S. District Court for the Central District of California to four counts of wire fraud, in violation of 18 U.S.C. § 1343. *See* Minutes, ECF 93, *United States v. Suite*, No. 8:16-CR-69 (C.D. Cal. June 5, 2017). As charged in the Indictment, Suite made false and deceptive promises and statements in connection with offering and selling investments in a commodities trading program, and caused at least $40,000 in losses to his victims. *See* Indictment (ECF 14), *id.* (May 25, 2016).

Suite was sentenced to 121 months of imprisonment followed by three years of supervised release. *See* Judgment (ECF 136), *id.* (June 7, 2018). He was also ordered to pay $1,576,189.76 in restitution. *Id.* Suite appealed, challenging the voluntariness of his guilty plea, but the Ninth Circuit denied him relief on that basis. *See* Order (Doc. 43), *United States v. Suite*, No. 18–50169 (9th Cir. Feb. 3, 2020). Suite also appealed his sentence and other issues from his criminal case, but the Ninth Circuit affirmed the district court's decisions. *See United States v. Suite*, 792 F.App'x 485, 486 (9th Cir. 2020).

Although his criminal case was then final, Suite has since repeatedly attempted to challenge the voluntariness of his plea, his conviction, and his sentence. He first moved to withdraw his guilty plea, but the district court construed it as a collateral attack under 28 U.S.C. § 2255, and denied both Suite's motion and a certificate of appealability. *See* Orders (ECF 188–189), Crim. No. 8:16–69 (C.D. Cal. Jan. 4, 2021). Suite then filed a "mandamus" petition, which is really another collateral attack under § 2255. *See* Pet. (ECF 202), *id.* (filed Oct. 17, 2024). And more recently, he field a motion styled "All Writs Act/Writ Of Error Coram Nobis 28 U.S.C. §1651." *See* Mot. (ECF 209), *id.* (filed

Apr. 16, 2025). However, both continue to attack his criminal plea, conviction, and sentence, and raise many of the same challenges to his criminal conviction that he asserts in his removal proceedings.

Suite was released from federal prison on January 12, 2024, and immediately taken into ICE custody under 8 U.S.C. § 1226(c).

B. Removal proceedings and appeal to the Board of Immigration Appeals

On January 10, 2024, Suite was placed in removal proceedings by being issued a Notice to Appear based on his 2018 conviction.

In his immigration proceedings, Suite has conceded that (1) he is not a citizen or national of the United States, (2) he is a native and citizen of Trinidad and Tobago, and (3) he was admitted to the United States at New York, New York on or about January 9, 1969, as a lawful permanent resident. However, Suite has not conceded—and indeed, has continued to contest—that he was convicted of wire fraud, in violation of 18 U.S.C. § 1343, in the U.S. District Court for the Central District of California in 2018.

On March 20, 2024, based on certified court records that proved Suite's 2018 federal conviction under 18 U.S.C. § 1343, an Immigration Judge sustained the charge of removability based on Suite's conviction of an aggravated felony.

In subsequent immigration proceedings during 2024, Suite then sought multiple, different forms of relief from removal.[2] However, on December 9, 2024, an Immigration Judge reviewed the evidence and arguments, denied all Suite's requests for relief from removal, and ultimately ordered that Suite be removed to Trinidad and Tobago.

Suite then appealed the Immigration Judge's decisions to the Board of Immigration Appeals (BIA). The BIA set a May 16, 2025 deadline for the parties to file simultaneous briefs. However, Suite failed to file any brief to the BIA in support of his appeal. And to date, the BIA has not yet issued a decision on Suite's appeal.

[2] By regulation, the details of an alien's requests for certain types of relief from removal are confidential and may not publicly be disclosed. *See* 8 C.F.R. § 208.6.

C. Suite's detention

Suite has been detained under 8 U.S.C. § 1226(c) since January 12, 2024. However, the intervening 19-month period includes the time in which Suite has contested his removability before the Immigration Judge, and the time during which Suite's subsequent appeal to the BIA has been pending.

For most of his detention, Suite has been housed at the Moshannon Valley Processing Center. For about five months, from February 19, 2025 until July 23, 2025, Suite was housed at the FDC Philadelphia under a February 6, 2025 interagency agreement between ICE and the Federal Bureau of Prisons (BOP), under which immigration detainees would be housed at certain BOP facilities. But on July 23, 2025, Suite was transferred back to Moshannon, where he currently resides.

III. LEGAL STANDARD

A habeas petitioner has the burden to demonstrate that he is in custody in violation of the Constitution or laws or treaties of the United States to warrant relief. *See, e.g., Cullen v. Pinholster*, 563 U.S. 170, 181 (2011). Moreover, where, as here, the Supreme Court has found the statute on which a challenge is based to be facially constitutional, *see Demore v. Kim*, 538 U.S. 510, 513 (2003), a petitioner must make a strong showing to demonstrate that the law is unconstitutional as applied to him. *See United States v. Five Gambling Devices*, 346 U.S. 441, 449 (1953); *Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 402 F.Supp. 251, 254 (E.D. Pa. 1975).

IV. ARGUMENT

A. Suite's request for immediate release from custody must be denied

Suite's Petition first asks this Court to order his immediate release from custody. *See* ECF 1 at 5. But that remedy is not available here because the INA instructs that "no court may set aside any action or decision by the [Secretary of Homeland Security] under this section regarding the detention of any alien or the revocation or denial of

bond or parole."[3] 8 U.S.C. § 1226(e). And courts in this Circuit have therefore held that they lack the authority to order the release of a noncitizen subject to mandatory detention. *See, e.g., Saint Jacques v. Dep't of Homeland Sec.*, 2021 WL 4494623, *2 (M.D. Pa. Sept. 30, 2021); *Nyamekye v. Oddo*, 2023 WL 9271844, *2 (W.D. Pa. May 4, 2023). Rather, they recognize that "the only remedy for an alien challenging their mandatory detention is a bond hearing." *Davis v. Warden of Pike Cty. Corr. Facility*, 2022 WL 4391686, *4 (M.D. Pa. Aug. 18, 2022), *R&R adopted*, 2022 WL 4389543 (M.D. Pa. Sept. 22, 2022).

B. Suite has also not shown an entitlement to a bond hearing

The Supreme Court has long recognized that the detention of noncitizens pending their removal is constitutional. *See, e.g., Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("We think it clear that detention or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens, would be valid.").[4] And in *Demore*, the Supreme Court specifically rejected a facial challenge to 8 U.S.C. § 1226(c)—the statute at issue here—which mandates detaining certain criminal noncitizens pending their removal proceedings without an opportunity for release on bond. *See* 538 U.S. at 529–31. The Court observed that § 1226(c) is predicated on Congress's concern that certain "deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in large numbers"—which is why Congress mandated their categorical detention without bond. *Id.* at 513. And as the Court explained, such detention is constitutional. *Id.* at 531. *See also Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469,

[3] Although the INA's language refers to the "Attorney General," in 2002, Congress transferred responsibility for enforcing the applicable provisions of the INA to the Secretary of Homeland Security. *See Nielsen v. Preap*, 586 U.S. 392, 398 n.2 (2019).

[4] *See also Demore*, 538 U.S. at 523 (detention during deportation proceedings is a constitutionally valid aspect of the process); *Reno v. Flores*, 507 U.S. 292, 306 (1993) ("Congress has the authority to detain aliens suspected of entering the country illegally pending their deportation hearings."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (detention is necessarily a part of the deportation procedure).

473 (3d Cir. 2015) ("The Supreme Court left no doubt that the Government's authority under section 1226(c) to detain aliens without an opportunity for bond complies with the Constitution." (citing *Demore*, 538 U.S. at 531)).

That said, the Third Circuit has held that aliens detained under § 1226(c) may bring as-applied challenges to obtain a bond hearing if their detention has become "unreasonable." *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 209–11 (3d Cir. 2020). Such a challenge requires assessing the reasonableness of the detention, which is a "highly fact-specific inquiry." *Id.* at 210 (cleaned up). There is no "bright-line threshold" for when detention becomes unreasonable, nor is there "a presumption of reasonableness or unreasonableness of any duration." *Id.* at 211.

Instead, reasonableness is determined based on all relevant circumstances, including four "nonexhaustive" factors: (1) the duration of the detention; (2) whether the detention is likely to continue; (3) the reasons for any delay in the underlying removal proceedings; and (4) whether the conditions of the detention are "meaningfully different" from criminal punishment. *Id.* at 210–11.

Here, consideration of Suite's specific circumstances show that his continued detention is not constitutionally unreasonable, and his petition should be denied.

1. The length of Suite's detention

Suite has been detained under § 1226(c) since January 12, 2024 (*see* ECF 1 at 1, 3), about 19 months. He argues that this detention is unreasonable because it "far exceeds the six-month threshold identified" by the Third Circuit. ECF 1 at 3. But as the Third Circuit explained, there is no "bright-line threshold" or "presumption of reasonableness or unreasonableness *of any duration*." *German Santos*, 965 F.3d at 210–11 (emphasis added). And while several district courts have held that detentions similar in length to Suite's weigh in a petitioner's favor, *see Grigoryan v. Jamison*, 2025 WL 1257693, *3 & n.4 (E.D. Pa. Apr. 30, 2025), the analysis still requires a fact-specific assessment of whether the length of detention here has become unreasonable. *German Santos*, 965 F.3d at 210.

2. Suite's removal proceedings and detention are likely to end soon

As explained above, Suite has appealed the Immigration Judge's December 2024 removal decision to the BIA. Nonetheless, the BIA will most likely dismiss Suite's administrative appeal based on his failure to file a brief in support of it. *See Argueta v. Att'y Gen. of U.S.*, 169 F. App'x 726, 727 (3d Cir. 2006). And even if Suite were to then appeal the BIA's dismissal, the Court of Appeals would most likely decline to review the BIA's decision because Suite failed to exhaust his administrative remedies when he failed to present arguments in his appeal to the BIA. *See id.*

Consequently, Suite's removal order is likely soon to become administratively final. And at that point, Suite's detention would no longer be under § 1226(c), but instead be governed by 8 U.S.C. § 1231, which provides independent authority for continued detention, and specifies a timeline for removal (and any potential release).

Specifically, under § 1231(a), the Secretary of Homeland Security is required to remove a noncitizen within the "removal period," which initially lasts for 90 days and begins when the removal order becomes administratively final. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527–29 (2021) (summarizing the removal process under § 1231). It authorizes detention for as long as "reasonably necessary to bring about [an] alien's removal from the United States," which is "presumptively six months." *Johnson*, 594 U.S. at 529 (citing *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001)). "After that point, if the alien 'provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,' the Government must either rebut that showing or release the alien." *Id.* (quoting *Zadvydas*, 533 U.S. at 701).

Moreover, once the basis for Suite's detention shifts to § 1231, any habeas proceeding would become moot. *See, e.g., Ufele v. Holder*, 473 F.App'x 144, 146 (3d Cir. 2012) (habeas challenge to noncitizen's detention under § 1226(c) was rendered moot

when "the BIA's order became administratively final and [his] detention switched from § 1226 to § 1231"); *Rodney v. Mukasey*, 340 F.App'x 761, 764-65 (3d Cir. 2009).[5]

3. The reasons for delays in Suite's detention

While unclear, Suite appears to assert that his "prolonged detention" is due to actions by the Immigration Judge when—despite Suite's claims that DHS had not met its burden of proof—the Immigration Judge conducted a *Joseph* hearing,[6] determined that Suite was properly included in a mandatory detention category under § 1226(c), and then twice delayed a scheduled court date by three months. *See* ECF 1 at 4. Suite then appears to challenge the Immigration Judge's decisions as improper and a violation of his due process rights. *See id.* And he appears improperly to ask this Court to consider the legality and constitutionality of the Immigration Judge's rulings.[7] *See id.*

Here, Suite has been in removal proceedings since January 2024, and he admitted at least some of his charges of removability at that time. But both in his immigration proceedings and through multiple filings in his criminal case in the Central District of California, during 2024 and 2025, Suite has continued to contest the validity of his 2018 criminal conviction for wire fraud, and, by extension, his removability based on his offense's qualification as an aggravated felony. This challenge required DHS to prove

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[5] *See also Maldonado-Velasquez v. Moniz*, No. 17–1918, 2018 WL 11444979, *1 (1st Cir. Mar. 22, 2018) (citing cases); *De La Teja v. United States*, 321 F.3d 1357, 1363 (11th Cir. 2003); *Byfield v. Ashcroft*, 74 F.App'x 411 (5th Cir. 2003); *Kevin A. M. v. Warden, Essex Cty. Corr. Facility*, 2021 WL 4772130, *1 (D.N.J. Oct. 12, 2021); *Alex B.K.K. v. Russo*, 2021 WL 4704971, *1 (D.N.J. Oct. 8, 2021); *Fabian A. v. Dep't of Homeland Sec.*, 2021 WL 3486905, *1 (D.N.J. Aug. 9, 2021); *Bah v. Doll*, 2020 WL 7241327, *2 (M.D. Pa. Dec. 9, 2020); *Ngoy v. Doll*, 2019 WL 3764636, *3 (M.D. Pa. May 15, 2019).

[6] *See In re Joseph*, 22 I.&N. Dec. 799 (BIA 1999).

[7] Congress has limited the jurisdiction of district courts to grant relief to petitioners who seek to challenge removal proceedings through a habeas petition. 8 U.S.C. § 1252(a)(5). Suite thus cannot use this habeas petition under 28 U.S.C. § 2241 to challenge decisions of the Immigration Judge; rather, he must file a petition for review with the court of appeals at the end of his administrative removal proceedings. *See* 8 U.S.C. §§ 1252(a)(5), 1252(b)(9). *See also Fabian A.*, 2021 WL 3486905 at *2–3 (explaining that Congress sought to streamline review of removal, previously divided between district courts (habeas corpus) and courts of appeals (petitions for review), by placing all review in the courts of appeals, thus providing an adequate and effective alternative to habeas corpus).

Suite's conviction of an aggravated felony, and for an Immigration Judge to determine Suite's removability on that basis and to decide Suite's applications for multiple forms of relief from removal. And after the Immigration Judge found Suite was removable, Suite appealed to the BIA, but failed to file a brief in support of his appeal.

Consequently, here, the government has not intentionally delayed or unreasonably prolonged Suite's removal proceedings, but has acted promptly throughout the process. Rather, much of the delay in ending Suite's detention is due to Suite's choice to deny his final conviction for an aggravated felony, and to otherwise contest removability before the Immigration Judge and the BIA on various grounds.

In other words, because Suite's own actions caused much of the delay in resolving his immigration proceedings, he cannot now cry foul about the length of his detention. And even if Suite did not act in bad faith in delaying his proceedings, he cannot now use the delay to secure a bond hearing to which he would not otherwise be entitled. *See Jorge M. v. Anderson*, 2020 WL 3264067, *4 (D.N.J. June 16, 2020).

Therefore, although Suite has been detained for 19 months, that length is not dispositive, especially considering the reasons for the delays in removal proceedings.

4. Suite does not show his confinement is like criminal punishment

Suite's Petition complains that his detention at the FDC Philadelphia, which is a BOP facility, subjects him to "double jeopardy" and "multiple punishment" because he has already served his criminal sentence, and argues that he should not be subjected to what he asserts are "prison-like conditions." ECF 1 at 2–4.

However, because on July 23, 2025, Suite was transferred back to Moshannon Valley Processing Center, his complaints about the FDC are now moot. *See Ibarra-Villalva v. USP-Allenwood*, 213 F.App'x 132, 134 (3d Cir.2007) (challenges to alleged conditions of confinement were moot because prisoner was transferred to another institution); *Sutton v. Bradley*, 2007 WL 4570781, *1 (M.D. Pa. Dec. 26, 2007). And although Suite's Petition asserts, in passing, that he was "held in harsh, prison like conditions at Moshannon,"

ECF 1 at 4, it provides no information about conditions at that facility, much less any support for finding they are not meaningfully different from criminal confinement.

Moreover, although Suite asserts that he lacks "adequate medical care," ECF 1 at 5, his Petition makes no specific factual claims in support, and its referenced exhibits are not medical records, but rather Suite's own assertions that he has various medical issues, and his arguments that if deported, he will not receive proper medical care. Thus, neither Suite's Petition nor its exhibits would support a cognizable claim that Suite's continued detention would violate due process. *See, e.g., Walmer S.-A. v. Tsoukaris*, 2020 WL 2316439, *2 (D.N.J. May 11, 2020); *cf. Arevalo-Guasco v. Dubois*, 788 F.App'x 25, 27 (2d Cir. 2019) (conclusory allegations in a § 2241 petition are insufficient).

Finally, "loss of freedom of choice and privacy are inherent incidents of confinement." *Bell v. Wolfish*, 441 U.S. 520, 537 (1979). But "the fact that … detention interferes with [a] detainee's understandable desire to live as comfortably as possible and with as little restraint as possible during confinement does not convert the conditions or restrictions of detention into 'punishment.'" *Id.*

V. CONCLUSION

For these reasons, Suite's habeas petition should be denied.

Respectfully submitted,

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Dated: August 8, 2025

CERTIFICATE OF SERVICE

I certify that on this date, the foregoing was filed electronically and is available for viewing and downloading from the CM/ECF system, and that a copy was served by first-class U.S. mail, postage prepaid, on the following:

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Dated: August 8, 2025

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