UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

M.P.L.,
Petitioner,

v.

PAUL ARTETA
in his official capacity as Sheriff of Orange County, New York and Warden of the Orange County Correctional Facility;

WILLIAM JOYCE,
in his official capacity as the Acting Field Office Director, New York City Field Office, U.S. Immigration & Customs Enforcement;

KRISTI NOEM,
in her official capacity as Secretary, U.S. Department of Homeland Security;

PAM BONDI,
in her official capacity as Attorney General, U.S. Department of Justice.
Respondents.

Civil Action No. 25-5307

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner M.P.L. ("M.P.L." or "Petitioner")[1] petitions this Court for a writ of habeas corpus to remedy his unlawful detention by Respondents. Respondents have detained him in immigration custody for four months without the opportunity to seek release at a bond hearing.

[1] Petitioner has filed a Motion For Leave To Proceed Under Pseudonym concurrently with the instant Petition.

2. Petitioner has no other remedy at law than to petition this Court and request the Court order Respondents either to immediately release him from immigration custody, or to order an individualized bond hearing at which the government must bear the burden of proving by clear and convincing evidence that continued detention remains justified. In such a bond hearing, to satisfy due process, an adjudicator must also consider the ability to pay bond and the availability of alternatives to detention, including conditions of supervision, that would mitigate any concerns as to flight risk and danger.

3. M.P.L. is a father and beloved community member who has lived in the United States for nearly twenty years after fleeing his native El Salvador. His arrest and subsequent detention by Immigration and Customs Enforcement ("ICE") is his only arrest in the United States. He has been detained by ICE since February 2025 in a county jail where he is unable to work and provide for his family.

JURISDICTION

4. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution; and the All Writs Act, 28 U.S.C. § 1651. Additionally, the Court has jurisdiction to grant injunctive relief in this case pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint[]" on [Petitioner's] individual liberty," such that he is "in custody in violation of the . . . laws . . . of the United States." *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241.

5. While the federal courts of appeals have jurisdiction to review removal orders directly through petitions for review, *see* 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or

constitutionality of their detention by ICE. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

6. The Supreme Court held that it had jurisdiction to review statutory claims by noncitizens subject to mandatory detention pursuant to, *inter alia*, § 1226(c), concluding that neither 8 U.S.C. § 1252(b)(9) nor § 1226(e) deprived the federal courts of jurisdiction to review the noncitizens' claims. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018).

VENUE

7. Pursuant to 28 U.S.C. § 2241(d), venue properly lies in the Southern District of New York. *See* 28 U.S.C. §§ 1391(e), 2241. Petitioner is currently detained within this District at Orange County Correctional Facility located at 110 Wells Farm Road, Goshen, NY 10924, and so he is physically present within the district.

8. The place of employment of Respondent Joyce is also located within the District, at 26 Federal Plaza, New York, NY. *See Braden v. 30th Judicial Circuit*, 410 U.S. 484, 493-94 (1973) (laying out traditional venue factors).

LEGAL FRAMEWORK

Statutory authority for Petitioner's detention

9. Congress authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings*, 138 S. Ct. at 833; *Demore*, 538 U.S. 510; *Zadvydas*, 533 U.S. at 690. Detention is either discretionary and provides for a bond hearing pursuant to the statute, *see* 8 U.S.C. § 1226(a), or is "mandatory," in that the statute does not provide for a bond hearing, *see* §§ 1225(b), 1226(c), 1231(a).

10. Under the discretionary detention statute, a noncitizen may request a bond hearing at any time to contest whether he is a danger or a flight risk and thus properly detained during

the pendency of his removal proceedings. *See* § 1226(a). Conversely, § 1226(c) authorizes DHS to indefinitely detain noncitizens without the opportunity to request that the immigration judge review whether detention is necessary. *See Jennings*, 138 S. Ct. at 833, 846 (holding that nothing in the statutory language of § 1226(c) limits "the length of detention" authorized by the statute). The Supreme Court, however, has left open the question of whether the Constitution requires bond hearings for noncitizens subject to mandatory, prolonged detention. *Id.* at 851.

11. As M.P.L. is currently detained under the mandatory provisions of § 1226(c) due to alleged material support of a terrorist group, he has not been afforded a bond hearing. M.P.L.'s material support was his forced recruitment into the Mara Salvatrucha ("MS-13") decades ago when he was a young person in El Salvador.

12. Section 1226(c)(1) of title 8 of the United States Code provides, in relevant part: "The Attorney General shall take into custody any [noncitizen] who . . . is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title," 8 U.S.C. § 1226(c)(1)(D), "when the [noncitizen] is released, without regard to whether the [noncitizen] is released on parole, supervised release, or probation, and without regard to whether the [noncitizen] may be arrested or imprisoned again for the same offense." *Id.*

13. Sections 1182(a)(3)(B) and 1227(a)(4)(B) in turn describe noncitizens who "engage" in "terrorist activities," which includes affording material support to terrorism under Section 1182(a)(3)(B)(iv)(VI)." (Terrorism-Related Inadmissibility Grounds). This provision is known as the TRIG Bar.

14. DHS can exempt the application of the material support bar in certain circumstances under its waiver authority from § 1182(d)(3)(B)(i), but the Immigration Court does not. *Id.* at 308-309.

15. Paragraph (c)(4) of § 1226 provides that the Attorney General may only release a noncitizen "described in paragraph (1)" under narrow circumstances not applicable here.

Designation of MS-13 as a terrorist organization

16. The Department of State designated Mara Salvatrucha (MS-13) a Foreign Terrorist Organization on February 20, 2025. *See* https://www.state.gov/foreign-terrorist-organizations/.

17. Prior to the 2025 designation, the United States government chose to refer to MS-13 as a "criminal gang" and did not classify the group as a terrorist organization. The United States Department of State ("DOS") is required by law to issue yearly "full and complete" country reports on terrorism to Congress. 22 U.S.C. § 2656f. The reports must include "detailed assessments" and "all relevant information about the activities during the preceding year of any terrorist group." *Id.* The country of El Salvador and MS-13 are not mentioned in the most recent 2023 report. *See DOS, Country Reports on Terrorism 2023, 2023*, available at available at https://www.state.gov/reports/country-reports-on-terrorism-2023/.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his immigration detention. *See Louisaire v. Muller*, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 341 (W.D.N.Y. 2018). No exhaustion requirement applies to the claims raised in this petition because the Immigration Court and Board of Immigration Appeals ("BIA") lack jurisdiction to entertain constitutional challenges. *See Arango-Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994); *Matter of Valdovinos*, 18 I&N Dec. 343, 345-46 (BIA 1982) (disclaiming jurisdiction to rule on constitutionality of immigration statute).

19. Nor is further action with the agency necessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *See, e.g., Araujo-Cortes*, 35 F. Supp. 3d at 538-39; *Monestime v. Reilly*, 704 F. Supp. 2d 453, 456-7 (S.D.N.Y. 2010); *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009).

20. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

PARTIES

21. Petitioner has been detained for four months at Orange County Correctional Facility associated with his pending removal proceedings. He continues to seek fear-based protection, and his appeal of the IJ's denial of relief is pending before the BIA.

22. Respondent Paul Arteta is named in his official capacity as Sheriff of Orange County, New York and acts as the warden for Orange County Correctional Facility, where Petitioner is detained. As such, he is the custodian of Petitioner. Respondent Arteta's office is located at 110 Wells Farm Rd, Goshen, New York 10924.

23. Respondent William Joyce is named in his official capacity as the Acting Director of the New York Field Office for Immigration and Customs Enforcement within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations for individuals under the jurisdiction of the New York Field Office. As such, he is the custodian of Petitioner. Respondent Joyce's office is located at 26 Federal Plaza, New York, NY 10278.

24. Respondent Kristi Noem is named in her official capacity as the Secretary of the United States Department of Homeland Security. She is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); she routinely transacts business in the Southern

District of New York; she supervises Respondent Joyce; and she is legally responsible for the pursuit of Petitioner's detention and removal. As such, she is a legal custodian of Petitioner. Respondent Noem's office is located in the United States Department of Homeland Security, Washington, District of Columbia 20528.

25. Respondent Pam Bondi is named in his official capacity as the Acting Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of New York and is legally responsible for administering Petitioner's removal proceedings and the standards used in those proceedings. As such, she is a legal custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, District of Columbia, 20530.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

26. M.P.L. is a father of three who was born in 1979 during the civil war in El Salvador in. Too poor to go to school, M.P.L. never learned to read or write and instead worked at his family's bakery from a young age. MS-13 grew in size and influence around the time that M.P.L. was growing up, and gang members sought to recruit him. When they asked M.P.L. to collect extortion payments from community members or use increasing violence, he refused. The members would beat him, once hitting him on the head with steel-toed boots to the point he nearly fainted. M.P.L. learned that refusal of MS-13 demands was not an option, which is why he also has the hallmarks of early 2000s Salvadoran gang membership permanently emblazoned on his skin in the form of MS-13 related tattoos. When gang members continued to demand his assistance to carry out violent acts, M.P.L. knew he had to flee to safety.

27. Since fleeing to the United States in 2007, M.P.L. has lived quietly in Queens with his family. He worked as a porter and maintenance man in a building in Midtown Manhattan for over a decade, gaining the trust and friendship of his bosses and employees in the building. Through his work, he became close with the Orthodox Jewish community in Queens with whom he spent his free time, volunteering at the Beth Gavriel Community Center in Forest Hills by helping with a food pantry and assisting in setting up for religious services. Despite having extremely limited literacy in any language, he even began trying to understand Hebrew. Members of this community have attended M.P.L.'s hearings before the immigration court, have visited him at the Orange County Jail, and have written numerous letters to demonstrate to the immigration court their unwavering support of M.P.L. and their belief in his humanity and his contributions to the United States. M.P.L. has no criminal record in the United States and has shown nothing but humility and perseverance since he arrived in this country.

28. After nearly 20 years of living in the United States, on February 27, 2025, ICE arrested M.P.L. and detained him at the Orange County Jail. ICE charged him as removable from the United States under INA § 212(a)(6)(A)(i) (presence in the United States without being admitted or paroled).

29. ICE deems Petitioner's detention pursuant to 8 U.S.C. § 1226(c), mandatory detention, due to his past forced membership in MS-13. When Petitioner's counsel reached out to ICE for confirmation of M.P.L.'s detention status via email on March 19, 2025, ICE responded on June 19, 2025, "Our position is that the respondent is not eligible for a bond redetermination by an immigration judge due to his membership in MS-13." Counsel also filed a request with ICE for M.P.L.'s release on April 2, 2025. Counsel did not receive a response.

30. After filing Form I-589 on March 24, 2025, M.P.L. had an Individual Hearing on May 8, 2025. On May 23, 2025, the immigration court denied M.P.L.'s request for protection under the Convention Against Torture ("CAT") finding M.P.L. did not meet his burden of proof. M.P.L. timely appealed the denial to the BIA on June 17, 2025.

31. As proceedings drag on, Petitioner continues to languish in detention at Orange County Jail, as he has been since February 27, 2025. Orange County Jail has been the subject of an extensive complaint to DHS's Office of Civil Rights and Civil Liberties for flagrant civil rights violations including medical neglect, lack of access to food available that is not rotten or expired, and abuse, harassment, and retaliation by facility personnel.[2] Currently, Petitioner is under conditions equivalent to criminal incarceration.

32. As a result, without access to a bond hearing, Petitioner will soon have endured over six months of detention without any individualized review by a neutral fact finder as to whether his custody in a county jail is warranted. In addition, ICE has a practice of keeping individuals detained while they appeal decisions.

LEGAL FRAMEWORK

A. Mandatory Detention is Subject to Constitutional Safeguards

33. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore*, 538 U.S. at 523 (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

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[2] *See* Mar. 21, 2023 CRCL Complaint Regarding Ongoing Abuse at Orange County Jail, https://www.law.nyu.edu/sites/default/files/2023.March_.21.%20CRCL%20Complaint%20re%20OCCF.pdf.

34. Detention pursuant to immigration proceedings—which are civil, not criminal—is constitutionally permissible only in "certain special and 'narrow' nonpunitive circumstances.'" *Zadvydas*, 533 U.S. at 690 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the [detained] individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal citation omitted). This is especially apparent in civil detention settings. *See, e.g., Addington v. Texas*, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purposes constitutes a significant deprivation of liberty that requires due process protection.") (internal citations omitted).

35. In the immigration context, the Supreme Court has recognized only two valid purposes for detaining noncitizens: to mitigate the risk of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 690-91; *see also Demore*, 538 U.S. at 515, 527-28. While the Supreme Court upheld mandatory detention under § 1226(c) in *Demore*, it did so based on the petitioner's concession of deportability and the Court's understanding that detention under § 1226(c) is typically "brief" and lasts a "very limited time." 538 U.S. at 513, 529 & n.12. The Court cited government-provided data that purported to show that "in the majority of cases [detention under § 1226(c)] lasts for less than the 90 days we considered presumptively valid in *Zadvydas*," and that "in the minority of cases in which the alien chooses to appeal," detention lasts "about five months." *Id.* at 529-30. However, those statistics were inaccurate even when *Demore* was decided.[3] In Petitioner's case, his detention—four months as of today, without a foreseeable end

[3] The statistical information provided by the Government and relied upon by the Supreme Court in *Demore* was in 2016 revealed by the Solicitor General to be inaccurate, and the true average length of immigration detention was shown to be much longer. *See Jennings*, 138 S. Ct. at 869 (Breyer, J., dissenting) ("The Government now tells us that the statistics it gave to the Court in *Demore* were wrong. Detention normally lasts twice as long as the Government then said it