

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

KASRA REZAEI,

A

Petitioner

v.

DONALD J. TRUMP, et al.,
Respondents

Case No. 6:25-cv-1140-CEM-DCI

**REPLY TO RESPONDENTS' OPPOSITION
TO THE PETITION FOR A WRIT OF
HABEAS CORPUS AND MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Pursuant to the Court's July 10, 2025 order, Petitioner Kasra Rezaee replies to Respondents' opposition to the petition for a writ of habeas corpus and motion for injunctive relief. Respondents only superficially engage with the arguments presented in the case, instead submitting that this Court lacks jurisdiction and that DHS is entitled to detain Mr. Rezaee wherever and whenever it pleases. But in looking at the facts and claims in this case, the Court should conclude that it does have jurisdiction and that DHS acted unlawfully and violated Mr. Rezaee's constitutional rights when agents apprehended him in the middle of his asylum hearing without any explanation, justification, or documentation.

Mr. Rezaee's immigration history is not in dispute; however, it was not fully acknowledged in Respondents' pleading. He entered the United States in 2023 without inspection and was processed and placed in removal proceedings so he could apply for asylum and related protection. *See Opp.* at 2 (ECF Doc. 17). DHS granted him parole from custody, which expired by its own terms in January 2025. *See Notice* (ECF Doc. 17-6). Between January 2025 and June 2025, DHS gave no indication that it would detain Mr. Rezaee or that the purpose of the initial grant of parole was no longer valid. Mr. Rezaee prepared his asylum application and submitted hundreds of pages of evidence. *See Am. Pet.* ¶ 20. He appeared at his June 25, 2025 hearing with counsel and

witnesses, and began testifying about his fear of returning to Iran. *Id.* ¶ 21. In the middle of his hearing, ICE agents entered the courtroom unannounced, interrupting his testimony and causing chaos in the middle of the trial. *Id.* ¶ 22. The immigration court did not preclude ICE from entering the courtroom and, instead, allowed the interruption in the middle of testimony. *Id.* While ICE agents were conferring with the DHS Trial Attorney, Mr. Rezaee obtained permission to leave the courtroom to use the restroom. Upon his exit from the courtroom—again, during the “break” requested by DHS and before Mr. Rezaee’s hearing could conclude—ICE apprehended Mr. Rezaee and his uncle without explanation or serving of any warrant or document relating to their apprehension or detention. *Id.* ¶ 23. The immigration judge did not order the hearing to continue but instead stopped the testimony and hearing.

Mr. Rezaee’s family immediately retained the undersigned counsel with the hopes of securing his release or, at a minimum, precluding his transfer outside of Orlando so he could complete his long-awaited asylum hearing with the judge who was familiar with the case and had heard his testimony thus far. However, ICE has since transferred Mr. Rezaee to Broward Transitional Center. *See* Notice to EOIR (ECF Doc. 17-8). Only *after* that transfer—and more than one week after he was taken in the middle of his hearing and detained—did DHS provide EOIR with notice of his custody.¹ *Id.* DHS has still failed to provide Mr. Rezaee notice of the reasons for his detention through an arrest warrant or notice of custody determination.

EOIR has transferred Mr. Rezaee’s proceedings to a different immigration court and different immigration judge, who has scheduled a procedural hearing for July 16, 2025. *See* Notice

¹ Respondents cite a 2023 Notice to Alien Ordered Removed/Departure Verification to assert that he is being held in custody pursuant to 8 U.S.C. § 1225(b)(1). *See* Opp at 3. This document was issued in 2023 and does not establish the basis for Mr. Rezaee’s 2025 apprehension or detention.

of Hearing (ECF Doc. 17-10). But this hearing is procedural in nature and will not allow Mr. Rezaee to finish his testimony, present his witnesses, or complete his claim for asylum.

This reply brief addresses three issues in response to Respondents' opposition. *First*, as a threshold matter, this Court does not lack jurisdiction. Respondents argue, without analysis,² that the Court lacks jurisdiction under 8 U.S.C. § 1252(g), which bars any court from hearing "any cause or claim by or on behalf of any alien arising from the decision or action by [DHS] to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." But this case does not raise such a cause or claim. Instead, Mr. Rezaee is seeking release from custody for his continued participation in his existing proceedings that the judge was in the process of adjudicating. And Mr. Rezaee cannot challenge the execution of his removal order because he is in the midst of removal proceedings and no removal order exists at this time.

Furthermore, the facts here are materially different from the cases Respondents rely upon. Notably, in *Gupta v. McGahey*, the Eleventh Circuit ruled that a noncitizen's constitutional challenges to his arrest were barred by § 1252(g) because they related to his *initial* arrest and placement in removal proceedings. 709 F.3d 1062, 1064 (11th Cir. 2013). Mr. Rezaee was initially charged with expedited removal in 2023 and issued a Notice to Appear and placed in full removal proceedings in 2024; thus challenges to his 2025 arrest do not relate to the agency's decision to "commence proceedings." Similarly, this case differs from *Marcelo v. United States*, No. 8:24-cv-757 (M.D. Fla. Apr. 2, 2024), and *de Paz Terraza v. DHS*, 824-cv-584 (M.D. Fla. Mar. 13, 2024), because the noncitizens in those cases were challenging their detention and placement in proceedings as an initial matter. While the court in *Marcelo* and *de Paz Terraza* relied on *Gupta* to

² Indeed, the only analysis in this portion of Respondents' pleading cites facts apparently from a case involving a different case. See Opp at 5 (referencing "an order of supervision to report to 26 Federal Plaza" in New York).

generally state that there is no jurisdiction over any challenges to a “removal determination,” such a broad statement mischaracterizes both the statute and *Gupta* and should not be expanded beyond the challenge to the placement in proceedings that was present in those cases. *Marcelo*, 2024 U.S. Dist. LEXIS 60127, *1; *de Paz Terraza*, 2024 U.S. Dist. LEXIS 43896, *1.

Respondents also cite *Mohammad v. Creel*, No. 4:13-cv-274 (N.D. Fla. Jan. 17, 2014) and *Williams v. DHS*, No. 22-cv-6539 (W.D.N.Y. May 22, 2023). Opp. at 5. However, those cases involved whether 8 U.S.C. § 1226(e) barred the court from reviewing a ruling that a noncitizen was ineligible for bond under 8 U.S.C. § 1226(c). See 8 U.S.C. § 1226(e) (“The Attorney General’s discretionary judgment regarding the application of *this section* shall not be subject to review. No court may set aside any action or decision by the Attorney General *under this section* regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.”) (emphasis added). However, not only is there no allegation that Mr. Rezaee has a criminal conviction that would subject him to mandatory detention under § 1226(c), but Respondents have argued that Mr. Rezaee is detained under a different section—8 U.S.C. § 1225—and thus § 1226(e), which is limited to determinations under Section 1226, is inapplicable.³ See Opp. at 3, 6.

Second, Respondents’ assertion that Mr. Rezaee’s petition is without merit is unsupported, ignores material facts, and does not address the claims Petitioner presented. Critically, Respondents assert that there is no legal concern here because Mr. Rezaee is subject to detention

³ If this Court were to find that Mr. Rezaee is detained under 8 U.S.C. § 1226, the immigration court would have jurisdiction to hold a bond hearing because Mr. Rezaee is not subject to § 1226(c). Whether a noncitizen is considered to be detained under § 1225 or § 1226 is nuanced and further complicated by the Attorney General’s decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (A.G. 2025). Mr. Rezaee’s claims in this petition are tied to his unlawful apprehension and corresponding detention and thus this issue is only relevant to address Respondents’ jurisdictional argument. However, should the Court wish to receive further briefing on the two different sections of the INA, Mr. Rezaee requests supplemental briefing with deadlines of no more than five days in light of Mr. Rezaee’s continued and unconstitutional detention.

under 8 U.S.C. § 1225 and DHS simply “brought [him] back into custody because his parole had already expired.” Opp. at 8. But this entirely ignores the material facts in this case. While Mr. Rezaee does not dispute that his parole expired in January 2025, DHS has not complied with the regulations or due process in placing Mr. Rezaee back in custody. DHS never presented an arrest warrant, which is required by 8 U.S.C. § 1357(a) for any apprehension away from the border unless the individual “is likely to escape before a warrant can be obtained for his arrest.” *Creedle v. Miami-Dade Cty.*, 349 F. Supp. 3d 1276, 1294-95 (S.D. Fla. 2018); 8 C.F.R. § 236.1(b)(1). And while Respondents rely on the parole statute, 8 U.S.C. § 1182(d)(5)(A), to argue that he was required to return to custody “forthwith” upon the parole’s expiration, Mr. Rezaee is still entitled to due process and the agency must still comply with its regulations in placing someone in custody. *See 8 C.F.R. § 236.1.*

Substantively, DHS has not informed Mr. Rezaee of the necessity for his re-detention and why such detention was necessary *in the middle of his testimony at his asylum hearing*. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019) (noting that, “[i]n practice, the DHS re-arrests individuals only after a ‘material’ change in circumstances.”) (citing *Matter of Sugay*, 17 L. & N. Dec. 637, 640 (BIA 1981)). Mr. Rezaee has an established constitutional right to present his case in his removal proceedings. *Lapaix v. U.S. Att’y Gen.*, 605 F.3d 1138, 1143 (11th Cir. 2010). DHS clearly violated that right by unilaterally halting the proceeding, and the immigration court similarly violated his constitutional right by allowing DHS to interrupt and stop the hearing. And Respondents neither acknowledge nor justify the agency actions in this case and therefore have not defended against the claimed constitutional violation. *See generally* Opp.

Third, with respect to the request for a temporary restraining order and preliminary injunction, Respondents fail to acknowledge critical facts and law that support an injunction in this

case. Respondents rely on 8 U.S.C. § 1231(g) to afford DHS allegedly unfettered discretion on where to hold noncitizens in detention. Opp. at 9. But none of the cases Respondents rely upon extend that discretion to allow the agency to pick a detention location in a way that violates a noncitizen's right to meaningfully participate in their own removal proceedings. In fact, the cases recognize the opposite.⁴ *Comm. of Cent. Am. Refugees v. INS*, 795 F.2d 1434, 1441-42 (distinguishing cases where the transfer of a noncitizen interfered with a constitutional right and stating “*in the absence of any evidence of a violation of due process*” the district court need not involve itself in the selection of where to detain noncitizens); *Avramenkov v. INS*, 99 F. Supp. 2d 210, 214 (D. Conn. 2000) (recognizing jurisdiction to review the place of detention upon “a showing that an alien's constitutional rights have been interfered with.”).

Finally, the balancing of the preliminary injunction factors weigh in Mr. Rezaee's favor. There are several factors that support a finding that DHS and DOJ's actions violated Mr. Rezaee's due process rights and thus the Court can issue the requested injunctive relief. *Lapaix v. U.S. Att'y Gen.*, 605 F.3d 1138, 1143 (11th Cir. 2010) (recognizing due process rights in immigration proceedings). Admittedly, it is speculative as to whether unilaterally stopping Mr. Rezaee's testimony and requiring him to face the stress of testifying about his claim again in the future after being abruptly cut-off before, providing DHS more time to prepare for cross-examination, and requiring the case to be reset in the future before a different judge who did not observe Mr. Rezaee's demeanor and credibility during his initial testimony could change the ultimate result. *Id.* (requiring a showing of prejudice for a due process claim). But it is not speculative to reason that Mr. Rezaee's witness(es) would be justifiably afraid to return to court to support Mr. Rezaee's

⁴ The third cited case, *Sasso v. Milhollan*, 735 F. Supp. 1045 (S.D. Fla. 1990) involved consideration of a prior version of § 1231(g) and did not reject the claim for lack of jurisdiction but instead found that the petitioner had not carried his burden in challenging his place of detention.

application after his nephew was also detained at Mr. Rezaee's hearing. And, perhaps most critically, the forced continuance of Mr. Rezaee's proceedings subjects Mr. Rezaee to extended detention. Indeed, Mr. Rezaee's asylum proceedings could have been completed weeks ago if DHS had not interrupted the hearing, and, in that case, he would not now be subject to detention under § 1225. *See* Opp. at 6-7; *Matter of Q. Li*, 29 I. & N. Dec. at 70-71 (requiring detention "until removal proceedings have concluded") (citation omitted).

Moreover, because his current detention is only authorized pending the completion of the removal proceedings—which would have already been completed if DHS had not interrupted Mr. Rezaee's hearing—he has shown irreparable injury absent this Court's order of his release or return to Orlando. Furthermore, while the government has a recognized interest in the effective and efficient administration of immigration laws, the actions here were neither. Interrupting and detaining Mr. Rezaee in the middle of his hearing precluded the efficient completion of his proceedings and caused his extended detention. Respondents' failure to acknowledge that their own actions have extended Mr. Rezaee's proceedings necessarily undermine their assertion that they are acting to protect the efficient and effective administration of immigration laws. For these reasons and those presented in the amended petition and amended motion, Mr. Rezaee requests the court grant his request for release and an order allowing him to continue his immigration proceedings before his initial judge in Orlando, Florida.

July 11, 2025

Respectfully submitted,

/s/ Jessica Dawgert

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CERTIFICATE OF SERVICE

I certify that on July 11, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice to:

Lakisha Davis
Assistant U.S. Attorney
Department of Justice

/s/ Jessica Dawgert

JESSICA DAWGERT
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