

District Judge Tana Lin
Magistrate Judge Brian A. Tsuchida

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

HASSAN AMHIRRA,

Petitioner,

v.

WARDEN, NORTHWEST DETENTION
CENTER,

Respondent.

Case No. 2:25-cv-01376-TL-BAT

UNITED STATES'¹ RETURN AND
MOTION TO DISMISS

Noted for Consideration:
September 24, 2025

I. INTRODUCTION

Amhirra seeks his immediate release from his mandatory immigration detention or, in the alternative, a court-ordered bond hearing. Dkt. No. 1, Pet., Prayer for Relief. But U.S. Immigration and Customs Enforcement (“ICE”) lawfully detains Amhirra for the duration of his removal proceedings pursuant to 8 U.S.C. § 1225(b). Federal Respondents acknowledge that his removal proceedings have been delayed in part due to a language barrier, as Amhirra claims to speak only a rare language and dialect. Due process requires that Amhirra be able to meaningfully participate in his removal proceedings by having the proceedings translated into a

¹ The Northwest ICE Processing Centers’ Facility Administrator is employed by a private contractor, the Geo Group. Undersigned counsel does not represent the Respondent. The Petition does not name a federal entity. To protect the Government’s interests, the United States submits this return as an interested non-party.

1 language that he can understand. The Government is working to protect Amhirra's due process
2 rights by finding the appropriate translator.

3 Amhirra has not demonstrated that he is subject to indefinite detention and entitled to
4 immediate release from detention. Furthermore, while prolonged, Amhirra has not established
5 that his continued detention has become unreasonable. Thus, this Court should deny his request
6 for a writ of habeas.

7 This Return is supported by the Declaration of Omar Carbajal ("Carbajal Decl."), the
8 Declaration of Christopher Sica ("Sica Decl.") with exhibits, and the Declaration of Michelle R.
9 Lambert ("Lambert Decl.") with exhibits.

10 II. BACKGROUND

11 A. 8 U.S.C. § 1225(b)

12 Amhirra is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). Aliens who
13 are apprehended shortly after illegally crossing the border and who are determined to be
14 inadmissible due to lacking a visa or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may
15 be removed pursuant to an expedited removal order unless they express an intention to apply for
16 asylum or a fear of persecution in their home country. 8 U.S.C. § 1225(b)(1)(A)(i), (iii)(II). "The
17 purpose of these provisions is to expedite the removal from the United States of aliens who
18 indisputably have no authorization to be admitted to the United States, while providing an
19 opportunity for such an alien who claims asylum to have the merits of his or her claim promptly
20 assessed by officers with full professional training in adjudicating asylum claims." H.R. Conf.
21 Rep. No. 828, 104th Cong., 2d Sess. 209 (1996).

22 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers
23 aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
24 documentation, and certain other aliens designated by the Attorney General in her discretion.

1 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
 2 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
 3 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

4 Congress has determined that all aliens subject to Section 1225(b) are subject to
 5 mandatory detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2),
 6 the sole means of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian
 7 reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

8 **B. Petitioner Hassan Amhirra**

9 Amhirra is a native and citizen of Morocco who entered the United States without
 10 inspection through the Mexico – United States border on or about September 15, 2024. Sica
 11 Decl., ¶¶ 3-4; Lambert Decl., Ex. A, I-213. Shortly after entering the United States, Amhirra
 12 was apprehended and processed for expedited removal. Lambert Decl., Ex. B, Notice and Order
 13 of Expedited Removal. On October 4, 2024, Amhirra was transferred to the Nevada Southern
 14 Detention Center. Sica Decl., ¶ 6.

15 Later in October, U.S. Citizenship and Immigration Services (“USCIS”) attempted to
 16 conduct a credible fear interview with Amhirra. *Id.*, ¶ 7. USCIS requested – but could not locate
 17 – a Tashelhit interpreter for the interview. *Id.* USCIS unsuccessfully tried to proceed with an
 18 Arabic interpreter. *Id.* As a result, USCIS issued a Notice to Appear that charged Amhirra as
 19 removable under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(7)(A)(I)(i) and placed him
 20 into removal proceedings. Sica Decl., ¶ 8; Lambert Decl., Ex. C, Notice to Appear.

21 On November 5, 2024, the Las Vegas Immigration Court held Amhirra’s initial hearing.
 22 Sica Decl., ¶ 11. However, Amhirra claimed not to understand the Arabic interpreter, but did
 23 inform the court that he spoke “Tamazight/Tashelhit.” Lambert Decl., Ex. D, Written Decision
 24 and Order, at 2. As a result, the hearing was reset for two weeks later. Sica Decl., ¶ 11. At the

1 rescheduled hearing, Tamazight and Berber interpreters were present. *Id.*, ¶ 12; Lambert Decl.,
2 Ex. D, at 2. But the Tamazight interpreter informed the Immigration Court that Amhirra did not
3 fully understand. Ex. D, at 2. It was also determined that Amhirra did not speak Arabic, French,
4 nor Darija (an Arabic dialect common in Morocco). *Id.* The DHS attorney informed the
5 Immigration Court that the credible fear interview was not conducted due to a lack of an
6 appropriate interpreter. *Id.*

7 On December 2, 2024, the Immigration Judge ordered DHS to advise the court of its
8 position regarding Amhirra's continued detention given the inability to secure an adequate
9 interpreter and whether the case should be terminated. *Id.* DHS responded by arguing that
10 Amhirra is subject to mandatory detention, the Immigration Court lacks the authority to
11 terminate the proceedings, and it should try interpreters in different dialects. *Id.* DHS also
12 suggested that an attorney be appointed as a friend of the Immigration Court. *Id.* On December
13 13, 2024, the Immigration Judge rejected these arguments and terminated the proceedings after
14 finding that the court was "unable to provide [Amhirra] adequate due process due to an inability
15 to communicate with him." *Id.*, at 5. On December 23, 2024, ICE reprocessed Amhirra with a
16 new expedited removal order. Lambert Decl., Ex. E, Notice of Expedited Removal; Lambert
17 Decl., Ex. F, I-213.

18 ICE transferred Amhirra to the Northwest ICE Processing Center ("NWIPC") on
19 February 4, 2025. Sica Decl., ¶ 17.

20 On July 11, 2025, Amhirra filed a motion for a bond redetermination hearing. Sica Decl.,
21 ¶ 18. Four days later, ICE filed a new Notice to Appear with the Tacoma Immigration Court.
22 *Id.*, ¶ 19; Lambert Decl., Ex. G, Notice to Appear. The Immigration Judge held a bond
23 redetermination hearing the next day and found that the court did not have jurisdiction over the
24 matter because there was no Notice to Appear or case before the Court. Lambert Decl., Ex. H,

Order. It is unclear why the Immigration Judge did not have the Notice to Appear filed the day before.

On July 25, 2025, Amhirra filed a motion to terminate the immigration proceedings. Lambert Decl., Ex. I, Motion to Terminate. This motion is still pending. *See* Sica Decl., ¶ 21.

At Amhirra's initial hearing on July 31, 2025, the Immigration Court was unable to locate an available Tashelhit interpreter through three different telephonic interpreter services. Carbajal Decl., ¶ 4. The case was reset to August 18, 2025, to schedule an interpreter in the appropriate language and to allow for DHS to reply to the motion to terminate. *Id.*

At the August 18, 2025 hearing, an interpreter was sworn in the Tamazight and Moroccan Arabic languages. Carbajal Decl., ¶ 5. The interpreter found that Amhirra's best language is Tamazight, and he is from the Atlas Mountains village of Aulouz near Assays. *Id.* Amhirra indicated that he could not understand the interpreter's dialect. *Id.* The case has been reset to September 2, 2025, to obtain an interpreter in the appropriate dialect. *Id.*

III. ARGUMENT

A. Amhirra's continued detention is statutorily mandated under 8 U.S.C. § 1225(b).

ICE lawfully detains Amhirra pursuant to 8 U.S.C. § 1225(b), which mandates detention of arriving aliens seeking admission to the United States. Individuals detained under Section 1225(b), including Amhirra, are not entitled to an individualized bond hearing simply due to the passage of time.

The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on the length of detention and whether such aliens detained under this statutory authority have a statutory right to a bond hearing. *See Jennings*, 583 U.S. at 297-303. The Court rejected both arguments, holding that Section 1225(b) mandates detention during the pendency of removal proceedings and provides no entitlement to a bond hearing. *See id.*, at 303 ("Nothing in the

1 statutory text imposes any limit on the length of detention.”). The Court further clarified that
2 Section 1225(b) detainees may be released only through discretionary parole under 8 U.S.C. §
3 1182(d)(5). *Id.*, at 300. While *Jennings* forecloses any statutory or categorical constitutional
4 right to a bond hearing under Section 1225(b), it did not reach the issue of whether prolonged
5 detention without such a hearing could, in individual cases, raise a due process concern.

6 Courts in this District analyze the constitutionality of continued Section 1225(b)
7 detentions without court-ordered bond hearings using a multi-factor test. *See Banda v.*
8 *McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019). In *Banda*, the district court
9 found that the petitioner’s 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had
10 become unreasonable. *Id.*, at 1117-121. To conduct this analysis, the court analyzed six factors:
11 (1) length of detention; (2) how long detention is likely to continue absent judicial intervention;
12 (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the
13 petitioner; (5) the nature and extent of any delays caused by the government; and (6) the
14 likelihood that the final proceedings will culminate in a final order of removal. *See id.* Analysis
15 of these factors demonstrates that Amhirra’s detention, while prolonged, has not become
16 unconstitutionally unreasonable.

17 Regarding the first *Banda* factor, Amhirra has been detained approximately 11 months.
18 While Federal Respondents acknowledge that his detention has become prolonged, this Court
19 should note that the current length of his detention has not reached the length of what many
20 courts have found to be unreasonable. *See Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL
21 8016749, at *5 (W.D. Wash. June 8, 2021), *report and recommendation adopted*, 2022 WL
22 1078627 (W.D. Wash. Apr. 11, 2022) (collecting cases finding prolonged detention from 13
23 months to 32 months without a court-ordered bond hearing to have become unreasonable).

1 The second *Banda* factor – the length of future detention for Amhirra – cannot be
2 assessed at this time. The immigration court is working to obtain an appropriate interpreter to
3 move forward with his removal proceedings. Amhirra has a pending hearing set for September
4 2, 2025, to obtain an interpreter in the correct language and dialect. Thus, any assessment of the
5 length of future detention would be speculative at best.

6 As for the third *Banda* factor – conditions of detention – Amhirra is detained at the
7 NWIPC.

8 The fourth *Banda* factor assesses delays caused by the petitioner. There are no indicia at
9 this time that Amhirra has caused delay in his removal proceedings.

10 The fifth *Banda* factor assesses delays in the removal proceedings caused by the
11 government. Federal Respondents acknowledge that there was government delay in filing the
12 July Notice to Appear. However, this Court should not find that the Government’s efforts to
13 obtain the appropriate interpreter for Amhirra are adverse to the Government for this factor.
14 There is no dispute that due process requires that noncitizens must be able to participate
15 meaningfully in their removal proceedings with translation into a language that they can
16 understand. *Hartooni v. I.N.S.*, 21 F.3d 336, 339-40 (9th Cir. 1994). Amhirra characterizes
17 Tamazight as “a rare language of North Africa.” Pet., ¶ 53. Thus, this Court should find that the
18 immigration court continuances are reasonable and should not be included as part of a delay on
19 the government’s behalf.

20 The last *Banda* factor weighs the likelihood that removal proceedings will result in a final
21 order of removal. It is too early to assess this factor.

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B. Even if a writ is issued for Amhirra, this Court should not grant his request for immediate release.

The Petition seeks unwarranted relief even if Amhirra were to prevail. This Court should deny Amhirra's request for immediate release from detention. Pet., ¶ 28. Amhirra claims that his detention has become indefinite based on the Supreme Court's implicit six-month presumptive reasonableness period for post-order detention. *See, e.g.*, Pet., ¶¶ 14, 78, 127 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)). But this case involves Section 1225(b) detention, not Section 1231(a)(6) detention so the six-month presumptive period does not apply here. Unlike Section 1231(a)(6), Section 1225(b) cannot "reasonably be read to limit detention to six months." *Jennings*, 583 U.S. at 301. The facts do not support a finding that Amhirra's detention may be indefinite at this time.

While Amhirra's detention has lasted approximately eleven months, The facts do not support a finding that Amhirra's detention may be indefinite at this time. The Immigration Court is actively working to obtain the appropriate interpreter. Amhirra has an upcoming hearing scheduled on September 2, 2025, as well as a pending motion to terminate the proceedings. Thus, this Court should not order his immediate release.

IV. CONCLUSION

This Court should find that Amhirra is lawfully detained pursuant to 8 U.S.C. § 1225(b) and his detention has not become unreasonable.

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1 DATED this 27th day of August, 2025.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 2,140*
17 *words, in compliance with the Local Civil Rules.*