

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' RESPONSE TO
PETITIONER'S MOTION FOR
PRELIMINARY INJUNCTION

Noted for Consideration:
September 17, 2025

I. INTRODUCTION

This Court should deny Petitioner Hassan Amhirra's motion for a preliminary injunction seeking release from custody or, in the alternative, a court-ordered bond hearing. Dkt. No. 14, PI Motion. As set forth in the United States' Return and Motion to Dismiss (Dkt. No. 16), 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). Amhirra's motion sets forth the same claims as asserted in his habeas petition concerning his prolonged detention but seeks the ultimate decision on an expedited basis.

The United States acknowledges 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 language that he can understand. The Government is working to protect Amhirra's due process rights by locating the appropriate translator.

Amhirra has not demonstrated that he is subject to indefinite detention and entitled to immediate release from detention. Furthermore, while prolonged, Amhirra has not established that his continued detention has become unreasonable. Amhirra does not allege in the Motion that any emergency has arisen since he filed a habeas corpus petition. The facts underlying that petition are set forth in the United States' return and motion to dismiss. *See* Dkt. 16. On this record, Amhirra's detention is lawful, and he has not met the high burden for emergency relief. The Court should deny the preliminary injunction motion and adjudicate his habeas corpus petition in due course.

II. STANDARD

A preliminary injunction is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). A stay "is not a matter of right, even if irreparable injury might otherwise result" but rather an exercise of judicial discretion that depends on the particular circumstances of the case. *Nken v. Holder*, 556 U.S. 418, 433 (2009) (citation omitted). To justify an injunction, a petitioner must establish that: (1) "he is likely to succeed on the merits"; (2) "he is likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance of equities tips in his favor"; and (4) "an injunction is in the public interest." *Winter*, 555 U.S. at 20.

Preliminary relief is meant to preserve the status quo pending final judgment. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984). When preliminary relief would change the status quo and "order a responsible party to take action," it is "particularly disfavored." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d

873, 879 (9th Cir. 2009). In such cases, the moving party “must establish that the law and facts clearly favor [his] position, not simply that [he] is likely to succeed.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis original).

III. ARGUMENT

I. **Amhirra has not established that the law and facts clearly favor his position that his detention is unlawful.**

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

For the reasons set forth in the United States return and motion to dismiss (Dkt. 16), ICE lawfully detains Amhirra pursuant to 8 U.S.C. § 1225(b). 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 v. Rodriguez*, 583 U.S. 281, 297-303 (2018). 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 statutory text imposes any limit on the length of detention.”). The Court further clarified that Section 1225(b) detainees may be released only through discretionary parole under 8 U.S.C. § 1182(d)(5). *Id.*, at 300. While *Jennings* forecloses any statutory or categorical constitutional right to a bond hearing under Section 1225(b), it did not reach the issue of whether prolonged detention without such a hearing could, in individual cases, raise a due process concern.

Courts in this District analyze the constitutionality of continued Section 1225(b) detentions without court-ordered bond hearings using a multi-factor test. *See Banda v.*

1 *McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019). In *Banda*, the district court
2 found that the petitioner's 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had
3 become unreasonable. *Id.*, at 1117-121. To conduct this analysis, the court analyzed six factors:
4 (1) length of detention; (2) how long detention is likely to continue absent judicial intervention;
5 (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the
6 petitioner; (5) the nature and extent of any delays caused by the government; and (6) the
7 likelihood that the final proceedings will culminate in a final order of removal. *See id.* Analysis
8 of these factors demonstrates that Amhirra's detention, while prolonged, has not become
9 unconstitutionally unreasonable.

10 Regarding the first *Banda* factor, Amhirra has been detained approximately for a year.
11 While Federal Respondents acknowledge that his detention has become prolonged, this Court
12 should note that the current length of his detention has not reached the length of what many
13 courts have found to be unreasonable. *See Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL
14 8016749, at *5 (W.D. Wash. June 8, 2021), *report and recommendation adopted*, 2022 WL
15 1078627 (W.D. Wash. Apr. 11, 2022) (collecting cases finding prolonged detention from 13
16 months to 32 months without a court-ordered bond hearing to have become unreasonable).

17 The second *Banda* factor – the length of future detention for Amhirra – cannot be
18 assessed at this time. The immigration court is working to obtain an appropriate interpreter to
19 move forward with his removal proceedings. Amhirra has a pending hearing set for September
20 12, 2025. Thus, any assessment of the length of future detention would be speculative at best.

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

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

1 The fifth *Banda* factor assesses delays in the removal proceedings caused by the
 2 government. The United States acknowledges that there was government delay in filing the July
 3 Notice to Appear. However, this Court should not find that the Government's efforts to obtain
 4 the appropriate interpreter for Amhirra are averse to the Government for this factor. There is no
 5 dispute that due process requires that noncitizens must be able to participate meaningfully in
 6 their removal proceedings with translation into a language that they can understand. *Hartooni v.*
 7 *I.N.S.*, 21 F.3d 336, 339-40 (9th Cir. 1994). Amhirra characterizes Tamazight as "a rare
 8 language of North Africa." Pet., ¶ 53. Thus, this Court should find that the immigration court
 9 continuances are reasonable and should not be included as part of a delay on the Government's
 10 behalf.

11 The last *Banda* factor weighs the likelihood that removal proceedings will result in a final
 12 order of removal. It is too early to assess this factor. Amhirra speculates that his removal
 13 proceedings may be terminated again. PI Motion, at 11. However, the immigration judge has
 14 denied his motion to terminate proceedings. Lambert Decl., Ex. A, Decision of the Immigration
 15 Judge.

16 **B. Amhirra cannot demonstrate that the law and facts clearly favor his immediate**
 17 **release.**

18 This Court should deny Amhirra's request for immediate release from detention.
 19 Amhirra claims that his detention has become indefinite based on the Supreme Court's implicit
 20 six-month presumptive reasonableness period for post-order detention. *See, e.g.*, Pet., ¶¶ 14, 78,
 21 127 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)); *see also* PI Mot., at 9-10. But this
 22 case involves Section 1225(b) detention, not Section 1231(a)(6) detention so the six-month
 23 presumptive period does not apply here. Unlike Section 1231(a)(6), Section 1225(b) cannot
 24 "reasonably be read to limit detention to six months." *Jennings*, 583 U.S. at 301.

Furthermore, the facts do not support a finding that Amhirra's detention may be indefinite at this time. As the immigration judge noted, Amhirra's proceedings have progressed beyond a preliminary appearance. The immigration judge has reset the matter to provide Amhirra with the opportunity to apply for relief from removal. Lambert Decl., Ex. A, at 2. Therefore, his removal proceedings are moving forward, and his detention is not "indefinite."

Thus, this Court should not order his immediate release.

II. Amhirra has not shown imminent, irreparable harm absent emergency relief.

Petitioner has not demonstrated that he will suffer irreparable injury absent his release. The Ninth Circuit makes clear that a showing of immediate irreparable harm is essential for prevailing on [an emergency motion]." *Juarez v. Asher*, 556 F. Supp. 3d 1181, 1191 (W.D. Wash. 2021) (citing *Caribbean Marine Co., Inc. v. Bladridge*, 844 F.2d 668, 674 (9th Cir. 1988)). To do so, Petitioner must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22.

Here, Petitioner does not allege that facts have changed since he filed his habeas corpus petition or that he faces any emergency while detained. Instead, he argues that his loss of liberty inflicts irreparable harm. PI Motion, at 13. He further adds, without specific allegations, that "prolonged civil detention . . . exacts a serious toll on a person's mental and physical health, family relationships, and overall life prospects." *Id.*

Amhirra's "loss of liberty" is "common to all aliens seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012); *Taha v. Bostock*, No. C25-649-RSM, 2025 WL 1126681, at *3 (W.D. Wash. Apr. 16, 2025) ("The Court agrees with Defendants that Petitioner's 'irreparable harm-based argument

begs the constitutional questions presented in his petition by assuming that [P]etitioner has suffered constitutional injury[.]’ and his emotional harm from this ‘loss of liberty’ is ‘common to all’ like Petitioner.”); *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011) (“[A] noncitizen must show that there is a reason specific to his or her case, as opposed to a reason that would apply equally well to all aliens and all cases, that removal would inflict irreparable harm[.]”). While Amhirra’s proceedings have been subject to delay to find an appropriate interpreter, he faces the same alleged irreparable harm as any habeas corpus petitioner in immigration custody, and he has not shown extraordinary circumstances warranting emergency relief.

C. The balance of interests favors the Government.

It is well settled that the public interest in enforcement of the United States’s immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.”) (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) (“There is always a public interest in prompt execution of removal orders[.]”). This public interest outweighs Amhirra’s private interest here. Amhirra asks the Court to declare his detention unlawful, despite the government’s valid reasons and statutory bases for his detention.

IV. CONCLUSION

For these reasons, the United States requests that the Court deny Amhirra’s preliminary injunction motion.

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1 DATED this 10th day of September, 2025.

2 Respectfully submitted,

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15 *I certify that this memorandum contains 1,955*
16 *words, in compliance with the Local Civil Rules.*

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