

DETAINED

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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

AMIN R. BASTAMI RAD

Petitioner,

v.

PAM BOND, ATTORNEY GENERAL;

SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;

U.S IMMIGRATION AND CUSTOMS ENFORCEMENT;

U.S. ICE FIELD OFFICE

DIRECTOR FOR THE GEORGIA FIELD OFFICE and

WARDEN OF STEWART DETENTION FACILITY,

Respondents.

EMERGENCY WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C 2241

Comes now, Petitioner, AMIN R. BASTAMI RAD, Pro Se, seeking an emergency order requesting writ of Habeas corpus and immediate release from prolonged detention.

LEGAL CONTEXT

Under 28 U.S.C 2241, a district court may exercise jurisdiction over habeas petition when the petitioner is in custody and alleges that this custody violates the constitution, laws, or treaties of the United States, 28 U.S.C 2241(c); Maleng v. Cook, 490 U.S 448, 490, 109 S.Ct 1923, 104 L.Ed. 2D 540 (1989), A petitioner may seek 2241 relief only in the district in which he is in custody.

BACKGROUND INFORMATION

Petitioner, Came to the united states through the Tijuana Mexico border /San Diego California on the October 1 ,2024. With the sole aim to seek Asylum and protection on religious and political ground. Petitioner has been in Immigration and Customs Enforcement (ICE) custody since October 1, 2024, and was never given the chance to seek /apply for bond on ground that petitioner is an arrival-alien. Petitioner's continued detention is now violating his Fifth Amendment right, liberty, freedom, it is cruel and unusual, and causing Mental,physical breakdown.

ARGUMENTS

Petitioner believes that his continued detention constitutes an unconstitutional application of 8 U.S.C 1226(c) and in the circumstances of this particular case would be a violation of Due Process under the Fifth Amendment. However, Non-citizen's in removal proceedings are entitled to the protection of the Fifth Amendment; *Kim, 538 US at 523*.

The Due Process clause requires interpretation of 8 U.S.C 1226(c) to implicitly authorize detention for a reasonable period of time, after which an individualized inquiry also known as a *Joseph Hearing (Matter of Joseph, 22 I. & N. Dec 799 (BIA 1999))*, is required to further determine if detention remained necessary to ensure that the alien attended removal proceedings and to prevent a danger to the community. During such hearing, the burden of proof is solely on the government to prove that continue detention is justified to protect the public and avoid risk of flight. Here, the petitioner hasn't been afforded that due process clause to determine if he is a danger to the community because the Petitioner is being held solely for the purpose of mandatory detention.

During Petitioner's continued detention by ICE at Stewart Detention Center (SDC), petitioner is being housed in jail-like conditions, rather I would say that petitioner is being housed worse than Prison-like conditions, petitioner is housed at the Maximum Security Classification unit with harsh conditions and people convicted of dangerous and violent crimes, fed terrible meals, early and constant lock-downs, at SDC the chaplain and the facility has not held or organized not one Christian religious service in almost 8 months he has been civilly detained, very restrictive movements, no rehabilitation classes or programming, Petitioner finds that his current conditions of detention is worse and mentally and physically challenging.

The conditions at SDC are by far worse than that of a penal institution. It has been held that *"observing that whether a detention facility is substantially similar to a penal institution 'may be probative of reasonableness' of the petitioner's continued detention"* see *Haughton*, 2016 U.S Dist. Lexis 140104, 16 WL 5899285, at *8n3. Also, *[A civilly detained person cannot be subject to conditions amounting to punishment but legitimate, non-punitive government interests include "effective management of detention facility."* See *Jones v. Blanas*, 393 F.3d 918, 932 (9th cir. 2004).] Considering the aforementioned, it is clear that SDC is punitive and not serving the purpose of civil detention rather serves are criminal punishment. And it has been established that immigration proceedings are not to punish past transgressions.

Right now, Petitioner is being civilly detained and has spent more than 180 days in ICE detention. In *Koifman v. Zemski*, 01-cv-2074, (E.D Penn. 2001), the court granted the habeas corpus petition and in an opinion by District Judge Bruce W. Kauffman, it reads in part *[...Although he may lose his battle to stay in the United States, "even a short period of parole before final resolution of his removal proceeding would be significant, because even a short-term separation from family members is a*

'deprivation which the Supreme Court has repeated ranked high among the interests of the individual.'" *Zgombic v. Farquharson*, 89 F. Supp 2D 220, 235 (D.Conn. 2000)].

Considering the preceding, petitioner humbly asks that this Habeas Corpus be granted and ordered immediately released from detention and ICE custody to enable him reunite with his freedom pending the outcome of the civil proceeding.

Any internal process at Department of Homeland Security (DHS) to determine whether release is warranted is not subject to review or challenge. Thus, there is a significant risk of erroneous, unwarranted detention, and the deprivation of my liberty interests. See e.g. *Hechavarria*, 2018 WL 5776421, at *8 ("*[G]iven that the statute precludes any pre- or post-deprivation procedure to challenge the government's assumption that an immigrant is a danger to the community or flight risk, it presents a significant risk of erroneously depriving [Petitioner] of life and liberty interests.*"); see also *Chi Thon Ngo*, 192 F.3d 390, 398-99 (3d Cir. 1999) ("*To presume dangerousness to the community and risk of flight based solely on his past record does not satisfy due process.... [P]resenting danger to the community at one point by committing crime does not place [a petitioner] forever beyond redemption.*").

In *Kim v. Ziglar* 276 F.3d 523 (9th Cir. 2002) and in an opinion by Circuit Judge William Fletcher, it states [*"Lawful permanent resident aliens are the most favored category of aliens to the United States. Unlike almost all other aliens, Lawful permanent residents aliens have the right to apply for United States Citizenship. They also have the right, without limitation, to work in the United States. Lawful permanent residents aliens have the right to reside permanently in the United States. They retain that right until a final administrative order of removal is entered. Mandatory detention violates the constitution, particularly when applied to Lawful permanent residents.*] Also in *Kim v. Ziglar* 276 F.3d 523 at 535 (9th Cir.2002) it says [*"for no-bail civil detention sufficient*

to overcome a Lawful permanent resident alien's liberty interest”]

As the Second Circuit articulated in *Velasco Lopez v. Decker*, once detention has become prolonged, it is in everyone's –the petitioner, the Government, and the public's– interest for the petitioner to receive a constitutionally adequate custody re determination hearing. See 978 F.3d 842,857 (2d Cir. 2020) (“The irony in this case is that, in the end, all interested parties prevailed. The Government has prevailed because it has no interest in the continued incarceration of an individual who it cannot show to be either a flight risk or a danger to his community. [The petitioner] has prevailed because he is no longer incarcerated. And the public's interest is seeing that individuals who need not be jailed are not incarcerated has been vindicated.”)

Petitioner has submitted a Colorable defense against removal to the USCIS, and notified the Immigration court. Whereas the petitioner believes that he would prevail. Additionally, his biometrics has been collected process by ICE as part of the process.

On the record during Petitioner's limited Asylum hearing, the Immigration Judge asked the DHS/ICE if the petitioner posed a risk to National Security and the DHS/ICE said petitioner was not. Petitioner also self-surrendered to the federal agent at arrival with no talk and place for flight risk, neither did the Petitioner pose any form of risk to the community, the only two valid justifications for detention are to mitigate the risks of danger to the community and to prevent flight. See *Demore*, 538 U.S at 531 (Kennedy, J., concurring) (“[T]he justification for 8 U.S.C 1226(c) is based upon the government's concerns over the risk of flight and danger to the community”). Considering these, Petitioner asks that this court order him released or be given a bond hearing by an I.J.

PRAYER FOR RELIEF

WHEREFORE, petitioner prays that this honorable court to grant the following relief:

1. Grant a Writ of Habeas Corpus ordering the Respondent to release me immediately;
2. Be granted a bond hearing by the IJ at the earliest convenient
3. Grant any other relief that the Court may deem appropriate.

I declare under oath, penalty of perjury under the laws of the United States that the forgoing is true.

Respectfully

s/AMIN R. BASTAMI RAD

AMIN R. BASTAMI RAD

Stewart Detention Center

P.O Box 248,

Lumpkin, GA 31815

CERTIFICATE OF SERVICE

I certify that on July 30th, 2025, a copy of this emergency Habeas corpus was sent to the Respondent by placing it in the outgoing mailbox and addressed as follows:

Warden

Stewart Detention Center

P.O Box 248,

Lumpkin, GA 31815

AMIN R. BASTAMI RAD

Stewart Detention Center