IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HEDIE MIRZAYI,

Petitioner.

v.

WARDEN,

Respondent.

Civil Action No. 3:25-CV-02244-X-BK

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Hedie Mirzayi, filed a writ of habeas corpus under 28 U.S.C. § 2241 alleging that her Fifth Amendment and Due Process rights were violated when she was not transported to her immigration hearings. She also claims that she is in danger of being subjected to Expedited Removal and denied an asylum interview. But as explained herein, Petitioner's claims are neither cognizable in habeas nor ripe. The Court should dismiss the petition because Petitioner is not entitled to any relief from this Court.

I. Argument and Authorities

A. Procedural History.

Petitioner is a citizen of the Islamic Republic of Iran. App. p. 5. On July 18, 2024, Petitioner applied for admission to the United States at San Ysidro, California. App. p. 6. She did not have a valid entry document as required under INA § 212(a)(7)(A)(i)(I). *Id.* As a result, she was placed into immigration proceedings with the issuance of a Notice to

Appear and released into the United States. App. p. 8.

Petitioner reported to the ERO Oklahoma City, Oklahoma office for a check-in on July 25, 2025. At that time, ERO placed her in detention at the Tulsa County Jail. App. p. 3, ¶ 5. She remained at the Tulsa County Jail until August 19, 2025, when she was transferred to the Prairieland Detention Center in Alvarado, Texas. *Id.* She has remained at the Prairieland Detention Center from August 19, 2025, to the present time. *Id.*

When Petitioner was transferred to the Tulsa County Jail, ERO mistakenly listed her new address as the Bluebonnet Detention Center in Anson, Texas. App. p. 3, at ¶ 6. The El Paso Court Immigration Court has jurisdiction over the Bluebonnet Detention Center cases, so Petitioner's case was docketed in the El Paso Immigration Court. *Id.* at ¶ 6. On July 28, 2025, the El Paso Immigration Court scheduled a hearing in Petitioner's case for August 28, 2025. App. pp. 15-16.

Petitioner's counsel filed a motion for a bond hearing in the El Paso Immigration Court. On July 30, 2025, the El Paso Immigration Court issued a notice of bond hearing set for August 5, 2025. App. p. 18. At the bond hearing, Petitioner was not present because she was not detained at the Bluebonnet Detention Center. The immigration judge took no action on the request for bond, finding she had no jurisdiction because Petitioner was not detained at Bluebonnet. App. p. 27.

Petitioner's counsel then filed a motion in the El Paso Immigration Court to change venue to the Aurora Immigration Court in Colorado, which is the proper court for aliens detained at the Tulsa County Jail. App. p. 20. On August 13, 2025, the El Paso immigration judge denied the motion to change venue because the motion did not state Petitioner's fixed

address including the city, state, and zip code. App. p. 30. Petitioner's counsel filed a motion to change venue to Aurora, Colorado that listed a full address for Petitioner and stated she was located at the David L. Moss Criminal Justice Center in Tulsa, Oklahoma. App. pp. 36-37. On August 19, 2025, however, Petitioner was transferred from the Tulsa County Jail to the Prairieland Detention Center. App. p. 40.

ERO filed a new address form in the El Paso Immigration Court notifying the court of Petitioner's address at the Prairieland Detention Center on August 21, 2025. *Id.* The new address form, however, incorrectly stated that Petitioner had arrived at the Prairieland Detention Center on July 25, 2025, when she did not arrive there until August 19, 2025. *Id.*

On August 26, 2025, the El Paso Immigration Court granted Petitioner's counsel's motion to change venue, but did not change venue to Aurora, Colorado. Instead, the IJ transferred the case to the Port Isabel Immigration court in Los Fresnos, Texas, which has jurisdiction over cases from the Prairieland Detention Center. App. p. 42. On August 20, 2025, Petitioner and her husband filed a joint habeas petition requesting the Court transfer the immigration cases to Colorado. ECF. 1. Thereafter on August 26, 2025, Petitioner filed an amended habeas petition requesting the Court declare her due process and fifth amendment rights have been violated for failure to transport to her immigration hearings. ECF. 5.

B. Petitioners' claims that ICE did not transport her to her hearing in immigration court are not cognizable under the writ of habeas corpus.

Petitioner makes allegations that she was not transported to her immigration

hearings in violation of her rights under the Immigration and Nationality Act. ECF. 5, at 5. An individual may seek habeas relief under 28 U.S.C. § 2241 if he is "in custody" under federal authority "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c). The "root principle" of habeas "is that neither men nor women should suffer illegal imprisonment." *Deters v. Collins*, 985 F.2d 789, 792 (5th Cir. 1993). However, "the grant of such a writ is not without limitations." *See id.* at 793. The Fifth Circuit has further described proper habeas challenges as falling into two categories: fact-based challenges to the cause of detention and duration-based challenges to the cause of detention. *See Poree v. Collins*, 866 F.3d 235, 243 (5th Cir. 2017) (noting "the instructive principle being that challenges to the fact or duration of confinement are properly brought under habeas"). Habeas petitions are appropriate only where the resolution would automatically entitle the alien to release. *Orellana v. Kyle*, 65 F.3d 29, 31 (5th Cir. 1995).

Petitioner's claims that the Respondents failed to transport her to her immigration hearing, specifically her bond hearing is not cognizable in a habeas petition. Because her immigration hearings would not automatically entitle Petitioner to accelerated release from detention, her claims do not arise under § 2241. *See Carson v. Johnson*, 112 F.3d 818, 820-21 (5th Cir.1997). Claims that have no relation to an alien's ultimate release from custody are not grounds for habeas relief. *Malchi v. Thaler*, 211 F.3d 953, 958-59 (5th Cir. 2000).

Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A) which mandates that she remain in detention during the pendency of her removal proceedings[1]. Pursuant to 8 U.S.C.

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[1] The only means to obtain release for an applicant for admission is through parole. CBP and ICE have discretion to parole applicants for admission into the United States. *See* 8 U.S.C. § 1182(d)(5). For

§ 1225(b)(2)(A), "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240." 8 U.S.C. § 1225(b)(2)(A). An arriving alien is defined in pertinent part as: "[A]n applicant for admission coming or attempting to come into the United States at a port-of entry." *See* 8 U.S.C. § 1001.1(q). Petitioner is an arriving alien. App. p. 8. Arriving aliens are not eligible for bond. *See* INA § 235(b)(2)(A). Immigration judges cannot redetermine custody conditions as to arriving aliens and an immigration judge has no jurisdiction to grant bond for an arriving alien. 8 CFR § 1003.19(h)(2). Petitioner therefore cannot show that she has a cognizable habeas claim on this issue or that she was prejudiced by not being present for her bond hearing.

C. Petitioner's expedited removal claims are not ripe for review.

Petitioner asserts the Court should grant her habeas petition because she "could see her Notice to Appear dismissed and then be processed through Expedited Removal . . ." ECF 5, at 2. Petitioner further claims that she "was told" that "she would soon be deported from the U.S." *Id.* There is no indication this has happened, could happen, or would happen, accordingly this claim challenging a potential expedited removal is not ripe for judicial review. *See Texas v. United States*, 523 U.S. 296, 300 (1998) (a "claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated

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those detained under § 1225(b), regulations provide that ICE or CBP may grant parole if the alien is "neither a security risk nor a risk of absconding," and (1) has a serious medical condition; (2) is pregnant; (3) falls within certain categories of juveniles; (4) will be a witness; or (5) if continued detention is otherwise "not in the public interest." 8 C.F.R. § 212.5(b); *see also* 8 C.F.R. § 235.3(c).

or indeed may not occur at all." (cleaned up)).

Whether Petitioner will be removed quickly or expeditiously to Iran is contingent on many things, none of which have happened. First, Petitioner does not even qualify for placement in expedited removal proceedings. Petitioner is an arriving alien who was paroled into the United States at a port of entry and has been present in the United States over a year. (*See* Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877 (Aug. 11, 2004))[2]. Therefore, she would not be subject to expedited removal. Second even if she could be subject to expedited removal, Petitioner may still pursue her protection claims. An alien who is processed for expedited removal, and who indicates an intention to apply for asylum or expresses a fear of persecution, torture, or a fear of return to his or her county, will be referred for an interview with an asylum officer who will determine whether the alien has a credible fear of persecution or torture. *See* 8 U.S.C. § 1225(b)(1)(B)(v); 8 C.F.R. §§ 235.3(b)(4), 208.30. Simply put, Petitioner's claims are all hypothetical with no indication when or whether they will even occur. As such, they are not ripe for adjudication.

II. Conclusion

Petitioner's claims are neither cognizable nor ripe for review in habeas. For these reasons, the petition should be denied.

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[2] The Designating Aliens for Expedited Removal (2004) was expanded in January 2025, and Petitioner would have qualified for expedited removal under that designation. However, the District Court for the District of Columbia stayed the January 2025 expanded expedited removal so it cannot be applied to Petitioner. *See Make the Road New York, et. al., v. Noem*, No. 1:25-CV-0190-JMC, (D.C. DC Aug. 29, 2025). Accordingly, Petitioner would not be subject to expedited removal.

Respectfully submitted.

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CERTIFICATE OF SERVICE

On September 9, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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