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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Y. M., Petitioner, v. MINGA WOFFORD, ET AL., Respondents.	CASE NO. 1:25-CV-01063-SKO RESPONDENTS' MOTION TO DISMISS AND RESPONDE TO PETITIONER FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

Y.M.'s petition for a writ of habeas corpus should be dismissed because he has been constitutionally detained since May 2023 in connection with his ongoing removal proceedings. U.S. Immigration and Customs Enforcement (ICE) initiated removal proceedings against Y.M. in 2006, and an in-absentia removal order was issued while he was in custody. Between 1998 and 2005, Y.M. was found guilty of several state drug offenses, and was cumulatively sentenced to serve approximately 18 months in custody. In 2006, Y.M. pled guilty to several drug and firearms offenses and was sentenced to 20 years in federal custody. Immediately after his release, he was detained by ICE and he subsequently moved to reopen his immigration proceedings. His detention under these circumstances is constitutional, and his habeas petition should be dismissed.

II. BACKGROUND

A. Y.M.'s Criminal History and Removal Proceedings

Y.M., a native and citizen of Haiti, arrived in the United States in 1992 and was granted parole to pursue an asylum claim. *See* Declaration of Y.M. (Y.M. Decl.), ¶ 1. On June 8, 1998, Y.M. was sentenced for his first drug offense, in what would become a lengthy criminal career. *See* Declaration of Deportation Officer Medina (Medina Decl.), ¶¶ 6-12.

On March 9, 2023, Y.M. was released from his federal custodial sentence and was detained by ICE. Medina Decl., ¶ 15. On September 25, 2023, Y.M. appeared for his first master calendar hearing before an immigration judge and was granted a continuance to file an application for relief. Medina Decl., ¶ 18. Y.M. subsequently requested continuances for each master calendar hearing from November 15, 2023 to March 6, 2024. Medina Decl., ¶¶ 19-24. On March 22, 2024, Y.M. requested an additional continuance to seek representation. Medina Decl., ¶ 24. After several more sua sponte continuances, and one continuance requested by Y.M., his individual merits hearing was held on February 18, 2025. The immigration judge ordered Y.M.'s removal to Haiti. Medina Decl., ¶ 25-31. On March 14, 2025, Y.M. sought review before the Board of Immigration Appeals, which was subsequently denied on August 18. 2025. Medina Decl., ¶32-33. On August 22, 2025, Y.M. filed a habeas petition in which he claims his detention has become prolonged. (ECF 1.) He demands a bond hearing or outright release. (ECF 1.) On August 27, 2025, the Court directed Respondents to file a response to the petition. (ECF 5.)

III. ARGUMENT

A. The Supreme Court Has Upheld the Constitutionality of Mandatory Detention for Certain Non-Citizens While Their Removal Proceedings Are Pending.

Y.M. is currently detained pursuant to 8 U.S.C. § 1226(c) while he seeks judicial review of his removal order. This case is not one where detention is indefinite, rather, "detention under § 1226(c) has a definite termination point: the conclusion of removal proceedings." *Jennings*, 138 S. Ct. at 846 (internal quotation marks omitted).

The Supreme Court has upheld mandatory detention under § 1226(c) as facially constitutional. *Demore v. Kim*, 538 U.S. 510, 531 (2003) (citing *Wong Wing v. United States*, 163 U.S. 228, 235

(1896); *Carlson v. Landon*, 342 U.S. 524 (1952); *Reno v. Flores*, 507 U.S. 292 (1993)). The Supreme Court observed that Congress enacted § 1226(c) to curb the risk of flight by deportable criminal noncitizens:

> Congress, justifiably concerned that deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in large numbers, may require that persons such as [the lawful permanent resident at issue in *Demore*] be detained for the brief period necessary for their removal proceedings. . .. Congress also had before it evidence that one of the major causes of the INS' failure to remove deportable criminal aliens was the agency's failure to detain those aliens during their deportation proceedings. . .. Once released, more than 20% of deportable criminal aliens failed to appear for their removal hearings. . .. Some studies presented to Congress suggested that detention of criminal aliens during their removal proceedings might be the best way to ensure their successful removal from this country. *See, e.g.*, 1989 House Hearing 75; Inspection Report, App. 46; S. Rep. 104-48, at 32 ("Congress should consider requiring that all aggravated felons be detained pending deportation. Such a step may be necessary because of the high rate of no-shows for those criminal aliens released on bond"). It was following those Reports that Congress enacted 8 U.S.C. § 1226, requiring the Attorney General to detain a subset of deportable criminal aliens pending a determination of their removability.

Id. at 513, 519–21. The Supreme Court held that "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Id.* at 521. The Supreme Court has recognized "detention during deportation proceedings as a constitutionally valid aspect of the deportation process" and noted that "deportation proceedings would be vain if those accused could not be held in custody pending the inquiry into their true character." *Id.* at 523 (quotation marks omitted). The Supreme Court further reaffirmed that immigration detention can be constitutional even in the absence of any showing that an individual detainee posed a flight risk or a danger to the community. *See id.* at 523–27 (discussing *Carlson*, 342 U.S. 524, and concluding that detention was constitutional "even without any finding of flight risk" or "individualized finding of likely future dangerousness"). In short, "the Supreme Court recognized [that] there is little question that the civil detention of aliens during removal proceedings can serve a legitimate government purpose, which is 'preventing deportable . . . aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed.'" *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1062–65 (9th Cir. 2008) (quoting *Demore*, 538 U.S. at 528).

Detention during removal proceedings remains constitutional so long as it continues to "serve its

purported immigration purpose." *See id.* at 527. The primary purpose of ensuring an alien's appearance for removal proceedings is present throughout removal proceedings and does not abate over time while those proceedings are still pending.[1] *Id.* Further, "[t]he government has an obvious interest in 'protecting the public from dangerous criminal aliens.'" *Rodriguez Diaz v. Garland,* 53 F.4th 1189, 1208 (9th Cir. 2022) (quoting *Demore*, 538 U.S. at 515). Thus, as the Ninth Circuit recognized, "[t]hese are interests of the highest order that only increase with the passage of time." *Id.* "The longer detention lasts and the longer the challenges to an IJ's order of removal take, the more resources the government devotes to securing an alien's ultimate removal" and, correspondingly, "[t]he risk of a detainee absconding also inevitably escalates as the time for removal becomes more imminent." *Id.*

This precedent has led at least one court in this district to hold that "[d]ue process doesn't require bond hearings for criminal aliens mandatorily detained under § 1226(c)—even for prolonged periods." *Keo v. Warden of the Mesa Verde ICE Processing Center*, 1:24-cv-00919-HBK (HC), 2025 WL 1029392, at *7 (E.D. Cal. Apr. 7, 2025), *appeal filed* no. 25-3546 (9th Cir. filed June 6, 2025). *But see Walter A.T. v. Facility Administrator, Golden State Annex*, no. 1:24-cv-01513-EPG-HC, 2025 WL 1744133, at *4 (E.D. Cal. June 24, 2025) (recognizing that "'district courts throughout this circuit have ordered immigration courts to conduct bond hearings for noncitizens held for prolonged periods under § 1226(c)' based on due process" (quoting *Martinez v. Clark*, 36 F. 4th 1219, 1223 (9th Cir. 2022), vacated on other grounds, 144 S.Ct. 1339 (2024))).

B. Y.M.'s Detention is Constitutional.

In *Demore*, the Supreme Court rejected a facial challenge to the mandatory detention scheme enacted by Congress and held that noncitizens (like Y.M., here) with certain criminal convictions may be lawfully detained for removal proceedings without a bond hearing. 538 U.S. at 523-31. In enacting this statutory detention structure – under which Y.M.'s detention is mandatory – Congress was "justifiably concerned that deportable criminal aliens who are not detained continue to engage in crime."

[1] In upholding mandatory detention under § 1226(c), the Supreme Court relied on an understanding that in the majority of cases, detention lasts for less than 90 days. *Demore*, 538 U.S. at 529; *but see Jennings*, 138 S. Ct. at 869 (Breyer, J., dissenting) (noting that those statistics were wrong and that detention normally lasts twice that long). The Supreme Court noted that in 15% of cases, detention lasted longer where the noncitizen appealed to the BIA, and that such appeals took an average of an additional four months. *Demore*, 538 U.S. at 529.

Id. at 513. Y.M. exemplifies the sort of criminal alien that Congress was concerned with when drafting the mandatory detention statute. But even when construed as an as-applied challenge, the circumstances of his detention are constitutional.

There is a general lack of guidance on the appropriate test or standard to apply to an as-applied challenge to prolonged detention claims. Some courts have applied bright-line rules. *See, e.g., Rodriguez v. Nielsen*, No. 18-cv-04187-TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019). Others have applied the three-part test set forth in *Mathews v. Eldridge*, 414 U.S. 319 (1976). *See, e.g., Henriquez v. Garland*, no. 22-cv-869-EJD, 2022 WL 2132919 (N.D. Cal. June 14, 2022). And many others have fashioned their own "myriad of overlapping balancing tests." *Keo*, 2025 WL 1029392, at *5 (collecting cases).

District courts have been left with the unenviable task of determining whether to use a test, and if so, which test is applicable. Unfortunately, each test has drawbacks when applied. Bright line rules fail to acknowledge any individual circumstances of a case, proving rigid and inflexible. *See Gonzalez v. Bonnar*, no. 18-cv-05321-JSC, 2019 WL 330906, at *2 (N.D. Cal. Jan. 25, 2019) ("[T]he Supreme Court's decision in *Jennings* establishes there is no . . . bright-line rule. . . . [T]he decision depends on the individual circumstances of each case."). Additionally, "while the *Mathews* factors may be well-suited to determining whether due process requires a second bond hearing, they are not particularly dispositive of whether prolonged mandatory detention has become unreasonable in a particular case." *Sanchez-Rivera v. Matuszewski*, no. 22-cv-1357-MMA (JLB), 2023 WL 139801, at *5 (S.D. Cal. Jan. 9, 2023) (internal quotation omitted). The various balancing tests are difficult to apply because many of the elements in those tests do not help to determine if the detention has become unreasonably prolonged. *See Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. Sept. 29, 2022) ("the conditions of detention, the likelihood that the removal proceedings will result in a final order of removal, whether the detention will exceed the time the petitioner spent in prison for the crime that made him removable, and the nature of the crimes the petitioner committed are not particularly suited to assisting the Court . . . .").

Even under a balancing test, Y.M.'s detention passes constitutional muster. Y.M. has certainly been in detention for a lengthy period – approximately 30 months as of the time of this filing. However,

Y.M.'s time in custody was prolonged principally by his decision to apply for relief from removal.[2] *Accord Rodriguez Diaz*, 53 F.4th at 1208 ("[W]e cannot simply count his months of detention and leave it at that.)

The process Y.M. received during this time must also be factored in, as well as the further process that has been made available to him, as well as his detention becoming prolonged in large part due to his decision to challenge his removal order. *See Rivas Avalos v. Sessions*, no. 18-cv-02342-HSG, 2018 WL 11402701, at *2 (N.D. Cal. May 25, 2018) ("delay caused by petitioner's litigation strategy does not ripen his detention into a constitutional claim") (internal quotations omitted)). Moreover, Y.M.'s detention has "a definite and evidently impending termination point" – specifically when his removal proceedings conclude. *Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004) ("[F]or now, his detention is clearly neither indefinite nor potentially permanent . . . it is, rather, directly associated with a judicial review process that has a definite and evidently impending termination point."); *see also Prieto-Romero*, 534 F.3d at 1065 (holding that an alien's detention was not unconstitutionally indefinite when it was prolonged by a challenge to his removal order and distinguishing a case in which the government made an "unusual move" that delayed resolution).

Y.M. has received adequate process in the form of multiple hearings before an immigration judge on his application for deferral of removal under the Convention Against Torture. Y.M. also sought review of the IJ's decision before the BIA, which was subsequently dismissed. Finally, Y.M. has petitioned the Ninth Circuit for review of his removal order.

The government's interest here is strong. "The government has an obvious interest in 'protecting the public from dangerous criminal aliens.'" *Rodriguez Diaz,* 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 515). This is a particularly cogent as Y.M. has abused the privilege of seeking asylum by spending much of his early life in the United States committing crimes at the behest of an organized street gang.

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[2] The length of Y.M.'s removal proceedings after his detention is partly due to the numerous extensions and continuances he was granted to file his asylum application and provide the necessary supporting documents. *See* Medina Decl., ¶ 19-27. To the extent this portion of his removal proceedings is relevant to the present analysis, Y.M.'s delay can only cut against his claim.

In sum, the circumstances of this case demonstrate that Y.M.'s detention is constitutional. The Court should deny Y.M.'s petition.

C. Y.M. Is Not Entitled to A New Bond Hearing, At Which the Government Must Bear The Burden Of Establishing His Dangerousness And Flight Risk By Clear And Convincing Evidence.

"[C]ompelled release of detainees is surely a remedy of last resort." *Fraihat*, 16 F.4th at 642. In the event that the petition is granted, the only appropriate relief is a bond hearing, not release from detention. *See, e.g.*, *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (explaining that "an individualized determination as to his risk of flight and dangerousness" is the proper remedy "if the continued detention became unreasonable or unjustified"); *Prieto-Romero*, 534 F.3d at 1065–66 (discussing how detainee "had an opportunity to contest the necessity of his detention before a neutral decisionmaker and an opportunity to appeal that determination to the BIA"); *Mansoor v. Figueroa*, No. 3:17-cv-01695-GPC (NLS), 2018 WL 840253, at *4 (S.D. Cal. Feb. 13, 2018) (IJs are well suited to assess eligibility for release, while a district court "lacks the factual support to make a determination about Petitioner's risk of flight or dangerousness to the community").

Should the Court order a bond hearing, Y.M. is mistaken that the burden should be on the government to justify his detention by clear and convincing evidence. The Constitution does not require the government to bear the burden of establishing that the noncitizen will be a flight risk or danger—much less that the government be subject to a clear-and-convincing-evidence standard—to justify temporary detention pending removal proceedings. The Supreme Court has consistently affirmed the constitutionality of detention pending removal proceedings, notwithstanding that the government has never borne the burden to justify that detention by clear and convincing evidence. *See Demore*, 538 U.S. at 531; *Flores*, 507 U.S. at 306; *Carlson*, 342 U.S. at 538; *Zadvydas*, 533 U.S. at 701. In fact, the Supreme Court has repeatedly upheld detention pending removal proceedings on the basis of a categorical, rather than individualized, assessment that a valid immigration purpose warranted interim custody. *See Demore*, 538 U.S. at 531; *Flores*, 507 U.S. at 306; *Carlson*, 342 U.S. at 538. And in *Zadvydas*, the Court placed the burden on the noncitizen, not the government, to show that his detention was unjustified. *Zadvydas*, 533 U.S. at 701 (noncitizen must first "provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," only after which "the

Government must respond with evidence sufficient to rebut that showing").

Indeed, the Ninth Circuit questioned (in the § 1226(a) context) how the burden-shifting and standard of proof that Petitioner demands could be constitutionally required:

> Nothing in this record suggests that placing the burden of proof on the government was constitutionally necessary to minimize the risk of error, much less that such burden-shifting would be constitutionally necessary in all, most, or many cases. There is no reason to believe that, as a general proposition, the government will invariably have more evidence than the alien on most issues bearing on alleged lack of future dangerousness or flight risk.

Rodriguez Diaz, 53 F.4th at 1211 (9th Cir. 2022). Accordingly, if the Court grants Y.M. a bond hearing, the burden at any such bond hearing is properly placed on him.

IV. CONCLUSION

Y.M. has exercised his rights to fully litigate his removal before the immigration court. Petitioner's detention is constitutional and has not become unduly prolonged. The Court should dismiss his habeas petition.

Dated: September 26, 2025

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