

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSE A. MATIR-MARTINEZ,

Petitioner,

v.

BRUCE SCOTT ,

Respondent.

CASE NO. 2:25-cv-02194-LK-BAT

**REPORT AND
RECOMMENDATION**

Petitioner requests the Court grant § 2241 habeas relief and order Respondents to release him from immigration detention. Dkt. 6 (habeas petition). Respondents contend Petitioner is lawfully detained pursuant to a final order of removal, he was afforded a bond hearing in November 2025, and there is no basis to order immediate release. Dkt. 16 (Response). For the reasons below the Court recommends **DENYING** the § 2241 petition and **DISMISSING** the case.

BACKGROUND

Petitioner contends as he has been detained since December 5, 2023, due process compels his release because his detention is prolonged, and he has no criminal convictions. Dkt. 6 at 4. Respondent opposes the habeas petition contending Petitioner, a native and citizen of El Salvador was initially arrested by immigration authorities in 2002 and removed from the United

1 States on March 18, 2022. *See* Response and supporting declarations, Dkts. 16-18. On December
2 3, 2023, Respondents again arrested Petitioner as an alien unlawfully in the country and
3 reinstated his prior order of removal. *See* Dkt. 17. After arrest, Petitioner claimed he feared for
4 his life if he was removed to El Salvador. On January 17, 2024, the U.S. Citizenship and
5 Immigration Services (USCIS) found Petitioner had a reasonable fear of return to his home
6 country and placed him in withholdings only proceedings. Petitioner then filed applications for
7 withholding and protection from removal under the Convention Against Torture (CAT). An
8 immigration judge denied the applications in October 2024 and Petitioner appealed to the BIA.
9 On February 21, 2025, the BIA dismissed the appeal. Petitioner moved to reconsider and also
10 appealed the BIA's decision to the Fourth Circuit Court of Appeals.

11 On October 23, 2025, Respondents obtained Petitioner's passport and cleared him for
12 removal to El Salvador. However, the Fourth Circuit Court of Appeals issued a stay of removal
13 in November 2025. As Petitioner remained in detention pending the stay, Respondents requested
14 a bond hearing be set. An immigration judge held a bond hearing on November 28, 2025, found
15 Respondents had shown by clear and convincing evidence Petitioner was a danger to the
16 community and a flight risk and denied bond. Petitioner did not appeal this determination.

17 DISCUSSION

18 Petitioner does not contest he was ordered removed in 2002; his final order of removal
19 was reinstated in 2023 when was rearrested, and he is thus lawfully detained under 8 U.S.C. §
20 1231(a). Rather the focus of Petitioner's habeas claim is the argument due process requires
21 immediate release due to the length of Petitioner's detention.

22 Defendant argues the Court should deny release because there is no statutory time limit
23 on Petitioner's detention. Even so, Respondents acknowledge due process provides protections

1 in cases involving prolonged detention, and do not dispute Petitioner has been detained for a
2 prolonged period. However, Respondents argue Petitioner has received all the process he is due.

3 Respondents argue due process does not compel release because Petitioner does not face
4 the predicament addressed in *Zadvydas v. Davis*, 533 U.S. 678 (2001)—persons detained with no
5 reasonable likelihood of removal in the foreseeable future. Rather Petitioner was removed to El
6 Salvador in 2022, and Respondents contend they face no obstacles in again removing him once
7 the stay is resolved. The concern addressed in *Zadvydas* is thus inapplicable here.

8 Next, Respondents contend that due to the length Petitioner’s detention, they provided
9 him a bond hearing in which an immigration judge found Respondents had shown by clear and
10 convincing evidence Petitioner should remain in detention because he is a danger to the
11 community and risk of flight.

12 Lastly, Respondents suggest Petitioner has been held since 2023 only because he seeks
13 judicial relief, including a stay of removal. Dkt.16 at 5. The Court rejects any suggestion the
14 length of Petitioner’s detention is his fault. Petitioner has an overwhelming interest to be free
15 from immigration detention. *Perera v. Jennings*, No. 21-CV-04136-BLF, 2021 WL 2400981, at
16 *4 (N.D. Cal. June 11, 2021). There is nothing suggesting Petitioner has improperly delayed
17 proceedings and the Court will not fault him for seeking all remedies. *See Masood v. Barr*, No.
18 19-CV-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) (“The BIA appeal and remand
19 motion are perfectly legitimate proceedings [petitioner] is legally entitled to pursue, and it ill
20 suits the United States to suggest that he could shorten his detention by giving up these
21 rights....”).

22 In conclusion, the Court finds Petitioner was lawfully detained and is lawfully held
23 pursuant to a final order of removal. There are no statutory grounds to grant immediate release.

1 Petitioner was afforded a bond hearing in November 2025 and thus has been afforded all the
2 process he is due. The Court accordingly recommends the petition for writ of habeas corpus
3 requesting immediate release be **DENIED** and the matter be **DISMISSED** with prejudice.

4 If this recommendation is adopted, the Court recommends striking Petitioner's motion for
5 appointment of counsel, Dkt. 10, as moot.

6 **OBJECTIONS AND APPEAL**

7 This Report and Recommendation is not an appealable order. Therefore, Petitioner
8 should not file a notice of appeal in the Court of Appeals for the Ninth Circuit until the assigned
9 District Judge enters a judgment in the case.

10 Objections, however, may be filed and served upon all parties no later than **January 28,**
11 **2026.** The Clerk shall note the matter for **January 30, 2026**, as ready for the District Judge's
12 consideration if no objection is filed. If objections are filed, any response is due within 14 days
13 after being served with the objections. A party filing an objection must note the matter for the
14 Court's consideration 14 days from the date the objection is filed and served. The matter will
15 then be ready for the Court's consideration on the date the response is due. The failure to timely
16 object may affect the right to appeal.

17 DATED this 8th day of January, 2026.

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21 BRIAN A. TSUCHIDA
22 United States Magistrate Judge
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