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9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 Harshdeep Singh Multani,
 11
 Petitioner,
 12 v.

Case No. 2:25-cv-02284-CDS-EJY

**Federal Respondents' Response to
 Petitioner's Petition for Writ of Habeas
 Corpus Under 28 U.S.C. § 2241 (ECF
 No. 6)**

13 PAMELA BONDI, Attorney General of the
 United States; KRISTI NOEM, Secretary,
 14 United States Department of Homeland
 Security; MICHAEL BERNACKE, Field
 15 Director, West Valley City Office; TODD
 LYONS, Acting Director; JOHN MATTOS,
 16 Nevada Southern Detention Center,
 17
 Respondents.

18
 19 Federal Respondents hereby file their Response to Petitioner Harshdeep Singh
 20 Multani Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (ECF No. 6).

21 **I. Factual Background**

22 Petitioner Harshdeep Singh Multani ("Petitioner") is a citizen and native of India.
 23 On July 23, 2018, Petitioner entered the United States at Calexico, California without
 24 inspection by U.S. Immigration Officers. See I-213 Form of Harshdeep Singh Multani
 25 attached hereto as Exhibit A. On August 17, 2018, a Notice to Appear was issued to
 26 Petitioner. See Notice to Appear attached hereto as Exhibit B. The United States
 27 Department of Homeland Security ("DHS") commenced removal proceedings against
 28 Petitioner. On November 14, 2018, a hearing was conducted where Petitioner, through

1 counsel, admitted the allegations and conceded the charges in his NTA. The Court
2 sustained both charges of removability. India was designated as the country of removal.
3 See Decision and Order of the Immigration Judge November 12, 2019, attached hereto as
4 Exhibit C. Petitioner sought asylum and withholding of removal under the Act and
5 protection under the Convention Against Torture. Petitioner testified on October 31, 2019,
6 at the hearing. After reviewing all the evidence, the Immigration Judge (“IJ”) denied
7 Petitioner’s applications for asylum, withholding of removal and protection under the
8 CAT. See Exhibit C. The IJ ruled that Petitioner was to be removed from the United States
9 to India. See Exhibit C. On September 8, 2023, the Board of Immigration Appeals (“BIA”)
10 denied Petitioner’s appeal. See BIA Denial of Appeal September 8, 2023, attached as
11 Exhibit D. On December 8, 2023, Petitioner filed a Motion to Reconsider with the BIA.
12 On June 28, 2024, the BIA denied Petitioner’s Motion to Reconsider due to being filed
13 untimely. See BIA Order June 28, 2024, attached hereto as Exhibit E. Petitioner failed to
14 depart the United States. On April 14, 2025, Petitioner was encountered by law
15 enforcement in Boise, Idaho during a commercial vehicle enforcement action where the
16 officer discovered that Petitioner was the subject of a National Crime Information Center
17 (“NCIC”) alert for a final order of removal. ICE was contacted and Petitioner was arrested
18 and placed in ICE custody. On May 9, 2025, Petitioner filed a Motion for Bond
19 Determination Hearing which was withdrawn on May 15, 2025. See Motion for Bond,
20 dated May 9, 2025, attached hereto as Exhibit F. On December 10, 2025, Petitioner filed a
21 Motion to Stay Removal with the Ninth Circuit Court of Appeals and a Petition for
22 Review. See Ninth Circuit Court of Appeals Docketing Notice, dated December 10, 2025
23 attached as Exhibit G. The Ninth Circuit granted Petitioner a temporary stay of removal.

24 For the reasons set forth in this Response, Federal Respondents’ position is that the
25 Petition should be denied, because Petitioner has been afforded due process throughout the
26 duration of his detention, Petitioner has refused to cooperate and assist ICE with travel
27 documents and travel arrangements since May 7, 2025, Petitioner has recently filed a stay
28

1 of removal proceedings which has been granted by the Ninth Circuit and he also filed a
 2 Petition for Review with the Ninth Circuit that is currently pending.

3 JURISDICTION AND BURDEN OF PROOF

4 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
 5 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon*
 6 *Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted).
 7 “[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789
 8 to the present day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S.Ct. 1959, 1974 n. 20
 9 (2020). Section 2241 of Title 28 provides district courts with jurisdiction to hear federal
 10 habeas petitions. The burden is on the habeas petitioner to demonstrate that he or she is in
 11 custody in violation of the Constitution or laws or treaties of the United States to warrant
 12 relief. *See* 28 U.S.C. § 2241(c).

13 **II. Legal Argument**

14 **A. Petitioner’s Continued Detention Does Not Violate His Fifth Amendment Right to Due Process.**

15 The Ninth Circuit, applying the Supreme Court's holding in *Thuraissigiam*, has
 16 explicitly stated that, “[a]ccordingly, any rights [an inadmissible alien] may have in regard
 17 to removal or admission are purely statutory in nature and are not derived from, or
 18 protected by, the Constitution's Due Process Clause.” *Mendoza-Linares v. Garland*, 51 F.4th
 19 1146, 1167 (9th Cir. 2022). Ultimately, “[t]he recognized liberty interests of U.S. citizens
 20 and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the
 21 proposition that Congress may make rules as to aliens that would be unacceptable if
 22 applied to citizens.’” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022)
 23 (quoting *Demore v. Kim*, 538 U.S. 510, 522, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003)).
 24 *Zelaya-Gonzalez v. Matuszewski*, 2023 U.S. Dist. LEXIS 72761, *10.

25 In this case, Petitioner may elect to pursue his legal options as he sees fit in seeking
 26 to forestall or reverse his final removal order; however, he cannot rely on the resulting delay
 27 and time it takes for such events to be adjudicated to claim that the United States
 28 government has violated his due process rights by continuing to detain him during such

1 time. *See Demore*, 123 S. Ct. at 1721 fn. 14 (stating “there is no constitutional prohibition
2 against requiring parties” to “mak[e] ... difficult judgments.” Therefore, Petitioner’s
3 continued detention does not violate his Fifth Amendment right to due process and his
4 Petition should be denied.

5
6 **B. Petitioner’s Continued Detention Does Not Violate 8 U.S.C. § 1231(a)(6).**

7 Petitioner is lawfully detained under 8 U.S.C. § 1231(a)(6) as he has been issued a final
8 order of removal, the ninety-day mandatory removal period set forth in 8 U.S.C. §
9 1231(a)(1)(A) has passed.

10 8 U.S.C. § 1231(a)(6) states:

11 **(6) Inadmissible or criminal aliens**

12 An alien ordered removed who is inadmissible under section 1182 of this title,
13 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who
14 has been determined by the Attorney General to be a risk to the community or
15 unlikely to comply with the order of removal, may be detained beyond the removal
16 period and, if released, shall be subject to the terms of supervision in paragraph (3).

17 The Supreme Court has interpreted the text of 8 U.S.C. § 1231(a)(6) and held that a
18 noncitizen detained under this statutory authority has no right to a bond hearing or release.
19 *See Johnson v. Arteaga-Martinez*, 142 S. Ct. 1827 at 1832-34; (“Section 1231(a)(6) does not
20 expressly specify how long detention past the 90-day removal period may continue for those
21 who fall within the four designated statutory categories.”); *id.* at 1833. The Supreme Court
22 has repeatedly “recognized detention during deportation proceedings as a constitutionally
23 valid aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003); *see also*,
24 *e.g.*, *Reno v. Flores*, 507 U.S. 292, 309 (1993) (rejecting procedural due process claim that “the
25 INS procedures are faulty because they do not provide for automatic review by an
26 immigration judge of the initial deportability and custody determinations”); *Abel v. United*
27 *States*, 362 U.S. 217, 233-34 (1960) (noting the “impressive historical evidence of acceptance
28 of the validity of statutes providing for administrative deportation arrest from almost the
beginning of the Nation”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is
necessarily a part of this deportation procedure.”); *Wong Wing v. United States*, 163 U.S. 228,

1 235 (1896) (“We think it clear that detention or temporary confinement, as part of the
2 means necessary to give effect to the provisions for the exclusion or expulsion of aliens,
3 would be valid.”). As the Supreme Court has explained, “[i]n the exercise of its broad power
4 over naturalization and immigration, Congress regularly makes rules that would be
5 unacceptable if applied to citizens.” *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Petitioner’s
6 substantive due process claim therefore fails. *See Demore*, 538 U.S. at 531; *see also Zadvydas*,
7 533 U.S. at 701 (recognizing a “presumptively reasonable period of detention” of up to six
8 months to effectuate a final removal order).

9 While a noncitizen detained under 8 U.S.C. § 1231(a)(6) does not have a statutory
10 right to release or a bond hearing, a noncitizen may warrant relief if he or she establishes a
11 due process violation under the standard set forth in *Zadvydas*, 533 U.S. at 690-701. In
12 *Zadvydas*, 533 U.S. at 689, the Supreme Court held that “in light of the Constitution’s
13 demands”, “indefinite and potentially permanent” detention under 8 U.S.C. § 1231 would
14 raise a “serious question” under the Fifth Amendment’s Due Process Clause. The Supreme
15 Court proceeded to conclude that detention of a noncitizen for up to six months under 8
16 U.S.C. § 1231 is “presumptively reasonable”, but added that “once the [noncitizen] provides
17 good reason to believe that there is no significant likelihood of removal in the reasonably
18 foreseeable future, the [g]overnment must respond with evidence sufficient to rebut that
19 showing.” *Id.* at 700-01.

20 In this case, Petitioner has refused to cooperate and assist ICE with travel
21 documents, travel arrangements and removal. Under 8 U.S.C. § 1253(a)(1), Petitioner has
22 an affirmative duty “to make timely application in good faith for travel and other
23 documents necessary to the alien’s departure.” Unfortunately, Petitioner’s inactions have
24 caused a delay to remove Petitioner to India and his continued detention does not violate 8
25 U.S.C. § 1231(a)(6). When an alien does not demonstrate that he or she has made good faith
26 efforts to assist with securing travel documents necessary to effectuate his or her removal,
27 the alien, once detained, “cannot convincingly argue that there is no significant likelihood
28 of removal in the reasonably foreseeable future if the detainee controls the clock.” *Pelich v.*

1 *INS*, 329 F.3d 1057, 1060 (9th Cir. 2003). Accordingly, “*Zadvydas* does not save an alien
2 who fails to provide requested documentation to effectuate his removal.” *U.S. ex rel. Kovalev*
3 *v. Ashcroft*, 71 F. App’x 919, 924 (3d Cir. 2003) (quoting *Pelich*, 329 F.3d at 1060).

4 In this case, on May 21, 2025, Petitioner refused to sign the Form I-299(a) Warning
5 for Failure Depart. A refusal to sign is evidence that the alien is not willing to cooperate
6 with ICE to work on travel arrangements and effectuate removal. See Form I-299(a) from
7 May 21, 2025, attached as Exhibit H. Form I-299(a) provides instructions and mandatory
8 requirements to assist in removal of aliens. In Form I-299(a), it first provides the law on the
9 duties of an alien to cooperate and assist in obtaining travel or other documents necessary
10 for the alien’s departure and penalty for failure to depart. INA § 243(a); 8 U.S.C. §
11 1253(a)(1). See Exhibit H. Form I-299(a) explains, “Any action Immigration and Customs
12 Enforcement may take to obtain a travel document for your departure or to remove you will
13 NOT relieve you of the liability for compliance with the provisions of law referred to in the
14 first paragraph above.” See Exhibit H, Page 1 of 2. Form I-299(a) also states, “Section
15 241(a)(1)(C) [8 U.S.C. § 1231(a)(1)(C)] provides for the extension of the statutory removal
16 period if the alien refuses, during the removal period, to make application in good faith, for
17 a travel or other document necessary for the alien’s removal or departure or conspires or
18 acts to prevent the alien’s removal subject to an order of removal.” See Exhibit H, Page 1 of
19 2. In Form I-299(a), it further specifically states, “Failure to comply or provide sufficient
20 evidence of your inability to comply, may result in the extension of the removal period and
21 subject you to further detention. In addition, you may be subject to criminal prosecution.”
22 See Exhibit H, Page 2 of 2. After being presented with Form I-299(a) on May 21, 2025,
23 Petitioner refused to sign it. On June 12, 2025, Petitioner was issued a Notice of Failure to
24 Comply Pursuant to 8 CFR 241.4(g). See Notice of Failure to Comply Pursuant to 8 CFR
25 241.4(g) from June 12, 2025, attached as Exhibit I. In the Notice, Petitioner was advised
26 that he failed to comply with his obligation and is acting to prevent his removal from the
27 United States and therefore his removal period was being extended. See Exhibit I. The
28 Notice explained that since Petitioner was still within the removal period, he was to remain

1 in ICE custody until he can demonstrate that he is making reasonable efforts to comply with
2 the order of removal and that he is cooperating with ICE's efforts to remove him. See
3 Exhibit I. Furthermore, the Notice advised Petitioner that continued willful failure or refusal
4 on his part to make timely application in good faith for travel or other documents necessary
5 for his departure, or any conspiracy or actions to prevent his removal or obstruct the
6 issuance of a travel document, may subject him to criminal prosecution under 8 U.S.C. §
7 1253(a). See Exhibit I. Petitioner failed to even sign receipt of the Notice of Failure to
8 Comply which further provided evidence of his lack of cooperation. See Exhibit I, Page 2.
9 On June 20, 2025, Petitioner was again presented with Form I-299(a) and he refused to sign
10 it. See Form I-299(a) from June 20, 2025, attached as Exhibit J. Petitioner advised the ICE
11 officers that he would refuse to sign documents to assist with his removal and was fine to
12 stay in ICE detention. Despite being advised with a Notice of Failure to Comply explaining
13 that his failure to cooperate with his removal from the United States has extended his
14 removal period and that he would remain in ICE custody until he cooperates with ICE to
15 effectuate his removal, on July 18, 2025, Petitioner again refused to sign Form I-299(a). See
16 Form I-299(a) from July 18, 2025, attached as Exhibit K. On August 15, 2025, Petitioner
17 once again refused to sign Form I-299(a) and cooperate with ICE to effectuate his removal.
18 See Form I-299(a) from August 15, 2025, attached as Exhibit L. After months of failing to
19 sign Form I-299(a), on November 21, 2025, Petitioner recently signed Form I-299(a) when
20 he filed the Petition for Writ of Habeas Corpus. See Form I-299(a) from November 21,
21 2025, attached hereto as Exhibit M. Since Petitioner's continued detention does not violate
22 8 U.S.C. § 1231(a)(6) due to his repeated failure to cooperate and assist in obtaining travel
23 or other documents necessary for his departure under 8 U.S.C. § 1253(a)(1), his Petition
24 should be denied.

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1 **C. ICE's Continued Detention of Petitioner Does Not violate the Administrative**
2 **Procedures Act.**

3 Based on Petitioner's repeated pattern of failure to cooperate with his removal from
4 the United States under 8 U.S.C. § 1253(a)(1), he is solely the cause of the delay to remove
5 him and his failure to obtain travel documents, has extended his removal period. ICE was
6 not the cause of the delay to remove Petitioner to India. Petitioner intentionally waited six
7 months before signing the required Form I-299(a). On four different occasions, Petitioner
8 failed to sign the Form I-299(a) and cooperate in obtaining travel documents to assist in his
9 removal to India. The overwhelming evidence shows that Petitioner intentionally failed to
10 cooperate with ICE in obtaining travel documents and that delay in removing him to India
11 has been due to his own actions. The Respondents tried to obtain Petitioner's cooperation,
12 but he repeatedly refused, which has caused the delay in removing him to India. Therefore,
13 ICE's continued detention of Petitioner does not violate the Administrative Procedures Act,
14 and his Petition should be denied.

15 **D. Petitioner is Not Subject to Third-Country Removal and Hence ICE Did Not**
16 **Violate the Administrative Procedures Act.**

17 Petitioner applied for protection under CAT and was denied and ordered removed to his
18 Country of citizenship which is India. Therefore, this is not a case where Petitioner will be
19 subject to third country removal, because he was denied CAT. Therefore, ICE did not
20 violate the Administrative Procedures Act because Petitioner's claim is not supported by the
21 facts of his case. Should the Ninth Circuit deny his Petition, Petitioner will be subject to
22 removal to India, which is his country of citizenship.

23 **E. Petitioner Is Not Subject to Third Country Removal and hence his Detention**
24 **Does Not Violate Due Process Clause of the Fifth Amendment.**

25 As stated above, Petitioner is not subject to third country removal. Petitioner has been
26 afforded due process throughout the time he has been in detention. His case was heard
27 before an IJ. Petitioner then filed an untimely appeal to the BIA. The BIA denied it.
28 Recently, Petitioner has filed a Petition for Review with the Ninth Circuit that is currently

1 pending. Petitioner also was granted temporary stay of removal. The evidence is clear and
2 overwhelming that Petitioner has been afforded due process in this matter and hence his
3 Petition should be denied.

4 **III. Conclusion**

5 Based on the above, this Court should deny Petitioner's Petition.

6 Respectfully submitted this 2nd day of January 2026.

7
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12 /s/ Tamer B. Botros
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