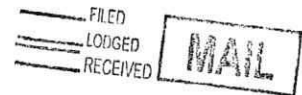


Name: Faheem Tariq
1623 EAST J STREET SUITE FIVE
TACOMA, WASHINGTON 98421



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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

**UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON**

Name :Faheem Tariq

Petitioner

vs.

Bruce Scott

Respondent

Case No.: 2:25-cv-2387 LK-SKV

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 USC 2241**

RELEVANT BACKGROUND

Comes now, Petitioner, ("hereinafter Petitioner"), Faheem Tariq is currently held in custody of the Attorney General at Tacoma's Northwest Detention Center in Tacoma Washington. Petitioner is a citizen and native of Pakistan, is a lawful permanent resident of the United States. In 2020, he pled guilty to violations of New Jersey Statutes Annotated sections 2C: 35-5(a)(1) and (b)(5), relating to the manufacturing, distributing, or dispensing of a controlled dangerous substance or controlled substance analog. Upon return from a subsequent trip abroad, the Department of Homeland Security ("DHS") charged Petitioner with inadmissibility to the United States as an alien who, violated any law or regulation relating to a controlled substance under 8 U.S.C. § 1182(a)(2)(A)(i)(II). Before the Immigration Judge ("IJ"), Petitioner sought cancellation of removal for lawful permanent residents. the IJ determined that Petitioner failed to meet his burden of establishing that his conviction did not constitute

an illicit trafficking aggravated felony pursuant to 8 U.S.C. § 1101(a)(43)(B) and denied his application. The Board of Immigration Appeals ("BIA") dismissed his appeal and reasoned that because Petitioner was indicted for knowingly or purposely possessing with intent to dispense or distribute a Schedule II narcotic drug, the record was inconclusive as to the exact substance at issue in the conviction. The BIA concluded that Petitioner did not meet his burden of establishing that his conviction does not qualify as an aggravated felony. Petitioner filed a Petition for Review

A. Petitioner's Continued Detention Without a Bond Hearing is Unreasonable

This case involves mandatory detention under 8 U.S.C. § 1226(c) as Petitioner has been deemed inadmissible for committing an aggravated felony covered in 8 U.S.C. § 1101(a)(43)(B). It is undisputed that Petitioner's mandatory detention pending removal and without an individualized bond decision complies with the applicable statutory scheme. See also *Avilez v. Garland*, 69 F.4th 525, 529-530 (9th Cir. 2023). As such, the relevant inquiry before the Court is solely whether Petitioner's term of mandatory pre-removal detention has exceeded constitutional reasonableness such that a bond hearing is required by due process. In *Demore v. Kim*, the Supreme Court rejected a due process challenge to mandatory detention under § 1226(c), holding that "the Government may constitutionally detain deportable [noncitizens] during the limited period necessary for their removal proceedings." 538 U.S. at 518-21, 526 (2003). Justice Kennedy's concurring opinion, which created the majority, reasoned that, beyond this limited period, due process may require "an individualized determination as to [a noncitizen's] risk of flight and

dangerousness if the continued detention became unreasonable or unjustified." *Id.* at 532 (emphasis added).

Since *Demore*, the Ninth Circuit has expressed "grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018). Although the due process analysis for prolonged detention under § 1226(c) remains an open question in the Ninth Circuit, this Court and "essentially all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, 'will-at some point-violate the right to due process.'" *Martinez v. Clark*, No. 2:18-cv-1669-RAJ-MAT, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *6 (W.D. Wash. May 23, 2019), *report and recommendation adopted*, 2019 U.S. Dist. LEXIS 196836, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019) (quoting *Sajous v. Decker*, No. 18-cv-2447-AJN, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *8 (S.D.N.Y. May 23, 2018)) (collecting cases); *Firas Djelassi v. Ice Field Office Dir.*, 434 F. Supp. 3d 917, 923-24 (W.D. Wash. 2020) (granting habeas petition and ordering bond hearing for noncitizen whose mandatory detention had become unreasonably prolonged); see also *Ashemuke v. ICE Field Off. Dir.*, No. 2:23-cv-1592-RSL-MLP, 2024 U.S. Dist. LEXIS 73224, 2024 WL 1683797, at *6 (W.D. Wash. Feb. 29, 2024), *report and recommendation adopted*, 2024 U.S. Dist. LEXIS

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71164, 2024 WL 1676681 (W.D. Wash. Apr. 18, 2024) (denying bond hearing where mandatory detention was not yet unreasonable).

Where a § 1226(c) detainee has not received a prior bond hearing, this Court applies the "multi-factor analysis that many other courts have relied upon to determine whether § 1226(c) detention has become unreasonable." *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *6-7. This analysis, which is referred to as the *Martinez* test, involves the following factors:

(1) the total length of detention to date; (2) the likely duration of future detention; (3) whether the detention will exceed the time the petitioner spent in prison for the crime that made him [or her] removable; (4) the nature of the crimes petitioner committed; (5) the conditions of detention; (6) delays in the removal proceedings caused by the petitioner; (7) delays in the removal proceedings caused by the government; and (8) the likelihood that the removal proceedings will result in a final order of removal.*Id.* at *7.

As Petitioner has not received a prior bond hearing, he will now apply the *Martinez* test to address whether his ongoing detention has become unreasonable.

1. Length of Petitioner's Detention to Date

The current length of Petitioner's detention is the first and most important factor of the analysis. See, e.g., *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *9; *Sajous*, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *10. The longer a noncitizen's mandatory detention continues beyond a "brief" period of detention, the harder such detention is to justify without an individual bond determination. See *Sajous*, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *10 ("[D]etention that has lasted longer than six months is more likely to be 'unreasonable,' and thus contrary to due process, than detention of less than six

months."); *Ashemuke*, 2024 U.S. Dist. LEXIS 73224, 2024 WL 1683797, at *4 (concluding the petitioner's ongoing detention of eleven months-and seven months at the time his petition was filed-extended beyond a presumptively valid brief period of detention); *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *9 (finding nearly thirteen- month detention weighed in favor of granting a bond hearing); *Juarez v. Wolf*, No. 20-cv-1660-RJB-MLP, 2021 U.S. Dist. LEXIS 107524, 2021 WL 2323436, at *5 (W.D.Wash. May 5, 2021), *report and recommendation adopted*, 2021 U.S. Dist. LEXIS 106645, 2021 WL 2322823 (W.D. Wash. June 7, 2021) (weighing petitioner's fourteen-month period of detention in his favor); *Liban M.J. v. Sec'y of Dep't of Homeland Sec.*, 367 F. Supp. 3D 959, 963-64 (D. Minn. 2019) ("Although there is no bright-line rule for what constitutes a reasonable length of detention, Petitioner's [twelve-month] detention has lasted beyond the 'brief' period assumed in *Demore*."); see also *Demore*, 538 U.S. at 531 (upholding ongoing detention of six months). Here, Petitioner has detained for over nineteen months at the time he filed his Petition. Because Petitioner's current period of detention is more than triple the presumptively reasonable six-month period discussed in *Demore*, this first factor weighs heavily in favor of granting a bond hearing.

2. Likely Duration of Future Detention

The Court next "considers how long the detention is likely to continue absent judicial intervention; in other words, the anticipated duration of all removal proceedings including administrative and judicial appeals." *Martinez*, 2019 U.S.

Dist. LEXIS 197895, 2019 WL 5968089, at *9. At this juncture, any estimate as to how long Petitioner's detention will continue requires a degree of speculation. Even so, the fact Petitioner is currently in the process of appealing his removal order to the Third Circuit provides some context. There is a high likelihood that his case will be remanded to the BIA. And if he gets an unfavorable ruling he will again Petition the Third Circuit, his detention is likely to continue for an indeterminate period of time. See e.g., U.S. Court of Appeals for the Ninth Circuit, FREQUENTLY ASKED QUESTIONS, www.ca9.uscourts.gov/content/faq.php (last accessed Sept. 6, 2024; addressing anticipated timelines for civil appeal from notice of appeal until final decision). Given the uncertainty of the likely duration of future detention, the second factor weighs in favor of granting a bond hearing. See *Ashemuke*, 2024 U.S. Dist. LEXIS 73224, 2024 WL 1683797, at *4 (concluding uncertainty inherent to removal proceedings weighed neutrally upon relief); *Barraza v. ICE Field Off. Dir.*, No. 2:23-cv-1271-BHS-MLP, 2023 U.S. Dist. LEXIS 235170, 2023 WL 9600946, at *6 (W.D. Wash. Dec. 8, 2023), *report and recommendation adopted.*, 2024 U.S. Dist. LEXIS 23423, 2024 WL 518945 (W.D. Wash. Feb. 9, 2024) (acute possibility of continued detention pending active appeal weighs in favor of granting a bond hearing).

3. Criminal History

Under the third and fourth factors, the Court assesses the current length of detention against the length of the detainee's criminal sentence and the nature of

his crime. *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *9; *Cabral v. Decker*, 331 F. Supp. 3d 255, 262 (S.D.N.Y. 2018). These factors are indicative of whether the detainee would be a danger to the community or a risk of flight such that a bond hearing would be futile. See *Cabral*, 331 F. Supp. 3d at 262; *Ashemuke*, 2024 U.S. Dist. LEXIS 73224, 2024 WL 1683797, at *5. Here, Petitioner's criminal conviction resulted in a non custodial sentence, served on probation. So his time in immigration detention has by far exceeded his criminal sentence. As for the nature of his crime, Petitioner admitted to guilty to violations of New Jersey Statutes Annotated sections 2C: 35-5(a)(1) and (b)(5), relating to the manufacturing, distributing, or dispensing of a controlled dangerous substance or controlled substance analog. Petitioner will be the first person to admit, that his conviction was serious, not to be dismissed lightly and should be punished in the criminal justice system, however, considering the length of Petitioner's sentence, the fact that there was no subsequent arrests or incidents or any other interactions with law enforcement agencies, the Court will find that the third and fourth factors weigh in favor of the Petitioner.

4. Conditions of Detention

Under the fifth factor, the Court considers the conditions of Petitioner's current detention. *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *9. "The more that the conditions under which the [noncitizen] is being held resemble penal confinement, the stronger [the] argument that he is entitled to a bond hearing."

Jamal A. v. Whitaker, 358 F. Supp. 3d 853, 860 (D. Minn. 2019) (citation and

internal quotations omitted). This Court has already found that the conditions at NWIPC resemble prison-like conditions. Petitioner also submitted a copy of the NWIPC Detainee Handbook, which reinforces his allegations that restrictions placed on his movements and conduct at NWIPC are similar to those restrictions imposed in penal institutions. The Court will find that this factor favors Petitioner. *Juarez*, 2021 U.S. Dist. LEXIS 107524, 2021 WL 2323436, at *6 (concluding fifth factor favored the petitioner given allegations regarding "restrictions on privacy and autonomy" and "a focus on punitive discipline" at NWIPC).

5. Delays in Removal Proceedings

Under the sixth and seventh factors, the Court considers "the nature and extent of any delays in the removal proceedings caused by petitioner and the government, respectively." *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *10. A noncitizen is entitled to raise legitimate defenses to his removal, "and such challenges to his removal cannot undermine his claim that detention has become unreasonable." *Liban M.J.*, 367 F. Supp. 3d at 965 (citing *Hernandez v. Decker*, 2018 U.S. Dist. LEXIS 124613, 2018 WL 3579108, at *9 (S.D.N.Y. July 25, 2018)). Thus, this factor only weighs against a petitioner when he "has 'substantially prolonged his stay by abusing the processes provided.'" but not when he "simply made use of the statutorily permitted appeals process." *Hechavarria v. Sessions*, 891 F.3d 49, 56 n.6 (2d Cir. 2018) (quoting *Nken v. Holder*, 556 U.S. 418, 436, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009)). On the other hand, unreasonable delays caused by immigration

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courts or government officials weigh against a respondent. *Sajous*, 2018 U.S. Dist.
LEXIS 86921, 2018 WL 2357266, at *11.

Here, there is no evidence of dilatory or bad faith conduct causing an undue delay in Petitioner's ongoing removal proceedings. Therefore, the sixth and seventh factor as weighing neutrally on relief.

6. Likelihood Removal Proceedings Will Result in a Final Order of Removal

Finally, the Court considers "the likelihood that the removal proceedings will result in a final order of removal." *Liban M.J.*, 367 F. Supp. 3d at 965. "In other words, the Court considers whether the noncitizen has asserted any defenses to removal." *Martinez*, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *10 (citing *Sajous*, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *11). "Where a noncitizen has not asserted any grounds for relief from removal, presumably the noncitizen will be removed from the United States, and continued detention will at least marginally serve the purpose of detention, namely assuring the noncitizen is removed as ordered." 2019 U.S. Dist. LEXIS 197895, [WL] at *10. "But where a noncitizen has asserted a good faith challenge to removal, the categorical nature of the detention will become increasingly unreasonable." *Id.* (quotations omitted). this factor weighs in favor of Petitioner since he has asserted defenses to removal/inadmissibility.

7. Weighing the Factors

As discussed above, six of the seven factors weigh in favor of Petitioner, including the first and most important factor. All considered, the Court will find that the factors

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weigh in Petitioner's favor (i.e., the current and future length of his detention and the conditions of his confinement) outweigh those favoring Respondent (i.e., factors relating to the underlying criminal conviction and sentence). Accordingly, Petitioner's detention has become unreasonable such that an individualized bond hearing is required to comport with due process.

CONCLUSION

Based on the foregoing, Petitioner respectfully requests the Court orders an individualized bond hearing where the Government bears the burden of proving that Petitioner is either a flight risk or a danger to the community by clear and convincing evidence.

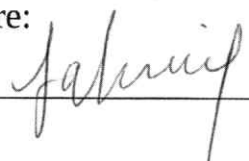
VERIFICATION

I, Faheem Tariq do hereby aver that the words above are the truth and the entire truth, that I will testify to those facts under penalty of perjury and I provide this information based upon personal belief that they are the facts of this matter, except where stated on personal belief. Submitted under the penalty of perjury of the laws of the United States.

Dated this: 13th day of November, 2025.

Respectfully submitted,
Faheem Tariq

Signature:

A handwritten signature in cursive script, appearing to read 'Faheem Tariq', is written over a horizontal line.

**UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON**

Faheem Tariq
(Petitioner)

v.

Bruce Scott
(Respondent)

PETITION FOR A WRIT OF HABEAS CORPUS



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AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON
BY 1 DEPUTY

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&

DECLARATION

I, Faheem Tariq, AVER THAT I AM A PARTY TO THIS ACTION DO HEREBY AVER THAT I HAVE PROVIDED A COPY OF THE FOREGOING DOCUMENT:

PETITION FOR WRIT OF HABEAS CORPUS

**U.S. District Court
Clerk's Office
700 Stewart Street, Suite 2310
Seattle, Washington 98101**

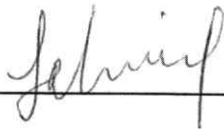
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Seattle Main Office
700 Stewart Street, Suite 5220
Seattle, Washington, 98101**

I WILL TESTIFY UNDER THE PENALTY OF PERJURY THAT THIS IS THE TRUTH.

THE ITEMS WERE MAILED FIRST CLASS MAIL ON THE DATE BELOW.

SUBMITTED ON November 13, 2025.

Signed: _____



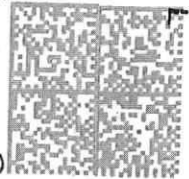
FAHEEN TARIQ

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